

# Washington State Register

MARCH 15, 1989



OLYMPIA, WASHINGTON

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## CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: The 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 28B.19 or 34.04 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to noon and from 1 p.m. to 5 p.m. Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

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## CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of March 1989 pursuant to RCW 19.52.020 is thirteen point zero four percent (13.04%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

The maximum allowable retail installment contract service charge applicable for calendar year 1989 pursuant to RCW 63.14.130(1)(a) is thirteen and one-half percent (13.50%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is fourteen and one-half percent (14.50%) for the first calendar quarter of 1989.

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# WASHINGTON STATE REGISTER

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

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## **STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER**

### **1. ARRANGEMENT OF THE REGISTER**

Documents are arranged within each issue of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence within an issue's material.

### **2. PROPOSED, ADOPTED, AND EMERGENCY RULES OF STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION**

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW) may be distinguished by the size and style of type in which they appear.

- (a) **Proposed rules** are those rules pending permanent adoption by an agency and are set forth in eight point type.
- (b) **Adopted rules** have been permanently adopted and are set forth in ten point type.
- (c) **Emergency rules** have been adopted on an emergency basis and are set forth in ten point oblique type.

### **3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL**

RCW 34.04.058 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
  - (i) underlined material is new material;
  - (ii) deleted material is (~~lined out and bracketed between double parentheses~~);
- (b) Complete new sections are prefaced by the heading **NEW SECTION**;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading **REPEALER**.

### **4. EXECUTIVE ORDERS, COURT RULES, NOTICES OF PUBLIC MEETINGS**

Material contained in the Register other than rule-making actions taken under the APA or the HEAPA does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

### **5. EFFECTIVE DATE OF RULES**

- (a) Permanently adopted agency rules take effect thirty days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed, but not advanced, and a delayed effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office and remain effective for a maximum of ninety days from that date.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

### **6. EDITORIAL CORRECTIONS**

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in brackets [ ].

### **7. INDEX AND TABLES**

A combined subject matter and agency index and a table of WAC sections affected may be found at the end of each issue.

## 1988 – 1989

### DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

| <u>Issue No.</u>         | <u>Closing Dates<sup>1</sup></u> |                       |   | <u>Distribution Date</u>   | <u>First Agency Action Date<sup>3</sup></u> |
|--------------------------|----------------------------------|-----------------------|---|----------------------------|---|
|                          | Non-OTS & 30 p. or more          | Non-OTS & 11 to 29 p. | OTS <sup>2</sup> or 10 p. max.<br>Non-OTS |                            |   |
| <u>For Inclusion in—</u> | <u>File no later than—</u>       |                       |   | <u>Count 20 days from—</u> | <u>For hearing/adoption on or after</u>     |
| 88-18                    | Aug 10                           | Aug 24                | Sep 7                                     | Sep 21                     | Oct 11                                      |
| 88-19                    | Aug 24                           | Sep 7                 | Sep 21                                    | Oct 5                      | Oct 25                                      |
| 88-20                    | Sep 7                            | Sep 21                | Oct 5                                     | Oct 19                     | Nov 8                                       |
| 88-21                    | Sep 21                           | Oct 5                 | Oct 19                                    | Nov 2                      | Nov 22                                      |
| 88-22                    | Oct 5                            | Oct 19                | Nov 2                                     | Nov 16                     | Dec 6                                       |
| 88-23                    | Oct 26                           | Nov 9                 | Nov 23                                    | Dec 7                      | Dec 27                                      |
| 88-24                    | Nov 9                            | Nov 23                | Dec 7                                     | Dec 21                     | Jan 10, 1989                                |
|                          |                                  |                       |   |                            |   |
| 89-01                    | Nov 23                           | Dec 7                 | Dec 21, 1988                              | Jan 4, 1989                | Jan 24                                      |
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| 89-21                    | Sep 20                           | Oct 4                 | Oct 18                                    | Nov 1                      | Nov 21                                      |
| 89-22                    | Oct 4                            | Oct 18                | Nov 1                                     | Nov 15                     | Dec 5                                       |
| 89-23                    | Oct 25                           | Nov 8                 | Nov 22                                    | Dec 6                      | Dec 26                                      |
| 89-24                    | Nov 8                            | Nov 22                | Dec 6                                     | Dec 20                     | Jan 9, 1990                                 |

<sup>1</sup>All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

<sup>2</sup>A filing of any length will be accepted on the closing dates of this column if it has been prepared by the order typing service (OTS) of the code reviser's office; see WAC 1-12-220 or 1-13-240. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

<sup>3</sup>"No proceeding may be held on any rule until twenty days have passed from the distribution date of the Register in which notice thereof was contained." RCW 28B.19.030(4) and 34.04.025(4). These dates represent the twentieth day after the distribution date of the applicable Register.

**WSR 89-05-064**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
[Filed February 15, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning the amending of WAC 230-04-010, 230-04-020, 230-04-065, 230-04-190, 230-04-201, 230-08-095, 230-08-120, 230-08-125, 230-12-020 and 230-20-064; new sections WAC 230-02-155, 230-02-160, 230-02-161, 230-02-163, 230-02-166, 230-02-169, 230-02-173, 230-02-176, 230-02-179, 230-02-182, 230-02-185, 230-02-188, 230-02-191, 230-04-005, 230-04-022, 230-04-024, 230-04-035, 230-04-040, 230-04-064, 230-08-122 and 230-12-060; and repealing WAC 230-04-050, 230-04-060 and 230-04-061;

that the agency will at 10:00 a.m., Friday, April 14, 1989, in the Sea-Tac Red Lion Inn, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 9.46.070 (7)(8)(9)(10)(14)(19)(20).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 14, 1989.

Dated: February 15, 1989  
By: Frank L. Miller  
Deputy Director

#### STATEMENT OF PURPOSE

Title: WAC 230-02-155 Bona fide charitable organization defined; 230-02-160 Charitable defined; 230-02-161 Bona fide nonprofit organization defined; 230-02-163 Educational defined; 230-02-166 Civic defined; 230-02-169 Patriotic defined; 230-02-173 Political defined; 230-02-176 Religious defined; 230-02-179 Social defined; 230-02-182 Fraternal defined; 230-02-185 Athletic defined; 230-02-188 Agricultural defined; 230-02-191 Agricultural fair defined; 230-04-005 Gambling license certification program; 230-04-010 Certification procedure—Application forms; 230-04-020 Certification procedure—General requirement—Mandatory training; 230-04-022 Certification procedure—Information required from all applicants; 230-04-024 Certification procedure—Charitable and nonprofit organizations—Qualifications; 230-04-035 Certification procedure—Charitable and nonprofit organizations—Classification of purpose; 230-04-040 Certification procedure—Charitable and nonprofit organization—Additional information required; 230-04-064 Certification procedure—All licenses—Formal commission approval; 230-04-065 Certification procedure—Bona fide charitable and nonprofit organizations—Lower volume—Simplified application; 230-04-190 Issuance of license; 230-04-201 Fees; 230-08-095 Minimum standards for Class D and larger bingo games—Monthly and annual accounting

records; 230-08-120 Quarterly activity report by operators of bingo games (license Class D and above); 230-08-122 Annual certification and financial report—All nonprofit and charitable organizations; 230-08-125 Annual activity reports by operators of Class A, B, and C bingo, all classes of raffles, and bona fide charitable or nonprofit amusement games; 230-12-020 Gambling receipts deposit required by all bona fide charitable and nonprofit organizations; 230-12-060 Charitable or nonprofit—Bingo—Special review; 230-20-064 Maximum receipts, prizes, and expenses for bingo games—Net income required; 230-04-050 Qualified bona fide charitable and nonprofit organization qualification; 230-04-060 Required information; and 230-04-061 Required information, bona fide charitable and nonprofit organizations.

Description of Purpose: These rules implement the bingo monitoring and review program.

Statutory Authority: 230-02-155, 230-02-160, 230-02-161, 230-02-163, 230-02-166, 230-02-169, 230-02-173, 230-02-176, 230-02-179, 230-02-182, 230-02-185, 230-02-188 and 230-02-191 is RCW 9.46.070 (14)(19)(20); WAC 230-04-005, 230-04-010, 230-04-020, 230-04-022, 230-04-024, 230-04-035, 230-04-040, 230-04-064, 230-04-065, 230-04-190 and 230-04-201 is RCW 9.46.070 (7)(14)(20); and WAC 230-08-095, 230-08-120, 230-08-122, 230-08-125, 230-12-020, 230-12-060 and 230-20-064 is RCW 9.46.070 (8)(9)(10)(14).

Summary of Proposed Rules and Reasons Supporting Action: These rules implement the bingo monitoring and review program. See list of titles above.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Ronald O. Bailey, Director, 234-1075 scan, 753-1075 comm; and Frank L. Miller, Deputy Director, 234-1075 scan, 753-1075 comm; located at Jefferson Building, 1110 South Jefferson, Olympia, WA 98504.

Proponents and Opponents: Gambling Commission staff propose these rule amendments and new rules.

Agency Comments: The agency believes the proposed amendments and new rules are self-explanatory and need no further comment.

These amendments and new rules were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined there may be an economic impact upon a certain number of licensees administered by this agency by the adoption of these amendments or new rules.

#### NEW SECTION

**WAC 230-02-155 BONA FIDE CHARITABLE ORGANIZATION DEFINED.** A bona fide charitable organization is an organization that meets all of the requirements of RCW 9.46.0209 and is organized and operated primarily to provide charitable services as defined by WAC 230-02-160. Each charitable organization shall provide evidence of its charitable status by submitting documentation setting forth the progress it has made toward accomplishing its charitable purpose(s) during its previous fiscal year. This statement and other evidence such as articles of incorporation, by-laws, and the fact that donations to such organization qualify as tax deductible contributions for federal income tax purposes, shall be taken into account when determining charitable organization status.

**NEW SECTION**

WAC 230-02-160 CHARITABLE DEFINED. For the purposes of this title, charitable, eleemosynary and benevolent are synonymous and mean: The relief of poverty, indigence and/or personal distress; help for disadvantaged persons; treatment and prevention of physical or mental distress. Services must be provided free of charge or for a fee which does not exceed the cost of providing the service. Any organization that requires a fee must utilize the revenue collected to continue its program services. In accordance with all state and federal law on discrimination, there can be no discrimination in providing services among those recipients chosen by the licensee. Corporations which have been incorporated under Title 36, U.S.C. for the principal purposes of furnishing volunteer aid to members of the armed forces of the United States and to carry on a system of national relief of suffering caused by pestilence, famine, fire, floods, and other national calamities or undertakes measures to prevent such are deemed to be charitable under this section. Charitable encompasses at least the following activities:

- (1) Relief of the aged and disadvantaged in the form of food, clothing, shelter, or health care;
- (2) Services or material assistance that will enable persons to maintain an adequate standard of living and/or improve their quality of life by raising their standard of living above the federal poverty level;
- (3) Programs for youths, 17 years old or younger, that assists them in learning and practicing the cultural and social skills necessary to:
  - (a) integrate them into society;
  - (b) improve their physical fitness; or
  - (c) prevent delinquency;
- (4) Advancement of education and learning which benefit and improve the quality of life of the general public or the community at large;
- (5) Advancement of a religion; and
- (6) Activities which reduce the burdens of government.

**NEW SECTION**

WAC 230-02-161 BONA FIDE NONPROFIT ORGANIZATION DEFINED. A bona fide nonprofit organization is a organization that meets all of the requirements of RCW 9.46.0209 and is organized and operated primarily to provide one or more of the following nonprofit services:

- (1) Educational;
- (2) Civic;
- (3) Patriotic;
- (4) Political;
- (5) Social;
- (6) Fraternal;
- (7) Athletic;
- (8) Agricultural;
- (9) Church and religious societies under RCW 24.12;
- (10) Fraternal societies under RCW 24.20;
- (11) Granges under RCW 24.28; and
- (12) Agricultural fairs under RCW 15.76 or RCW 36.37.

Each nonprofit organization shall provide evidence of its nonprofit status by submitting documentation setting forth the progress it has toward accomplishing its nonprofit purposes during its previous fiscal year. The fact that an organization is not exempt from payment of federal income taxes on income from its primary activities shall be prima facie evidence that the organization is not a nonprofit organization for purposes of conducting gambling activities.

**NEW SECTION**

WAC 230-02-163 EDUCATIONAL DEFINED. Educational means providing instruction or training to individuals for the purpose of improving or developing their capabilities, or providing instruction to the public on subjects useful to individuals and beneficial to the community.

**NEW SECTION**

WAC 230-02-166 CIVIC DEFINED. Civic means promoting social welfare for the common good of the community by bringing about civic betterment and social improvements.

**NEW SECTION**

WAC 230-02-169 PATRIOTIC DEFINED. Patriotic means promoting patriotism, Americanism, loyalty, support, and love of country. Normal activities conducted by veteran groups would be included in this definition.

**NEW SECTION**

WAC 230-02-173 POLITICAL DEFINED. Political means the process of electing candidates to public or party offices. Activities conducted with the goal of influencing executive action, legislation or WAC rules are considered lobbying activities and not included under this definition.

**NEW SECTION**

WAC 230-02-176 RELIGIOUS DEFINED. Religious means advancement of a sincerely held theological philosophy. Included are the practices and rituals associated with the beliefs or creed of those groups of people which form a church, religious society, congregation, or religious denomination, when such practices or rituals are not illegal or against public policy. Corporations sole, as set out in RCW 24.12; are encompassed in this definition.

**NEW SECTION**

WAC 230-02-179 SOCIAL DEFINED. Social means providing recreation, recreational facilities, and/or other activities when solely for the pleasure of a membership.

**NEW SECTION**

WAC 230-02-182 FRATERNAL DEFINED. Fraternal means promoting and carrying on activities for the common interests of a membership and is organized under the lodge system which is comprised of local self-governing branches, chartered by a parent organization. Incorporated fraternal societies, as set out in RCW 24.20, are also encompassed under this definition.

**NEW SECTION**

WAC 230-02-185 ATHLETIC DEFINED. Athletic means activities which provide entertainment/pleasure or which promote physical fitness, sportsmanship, and development of amateur athletes through the conducting of athletic contests and training programs. For purposes of this title, athletic is further defined in the following categories:

- (1) Educational – The training of youth 17 years old and younger to enhance normal physical and social development and to prevent juvenile delinquency;
- (2) Patriotic – Fostering and promoting national and international amateur competition; and
- (3) Recreational – Providing recreational activities for adults.

**NEW SECTION**

WAC 230-02-188 AGRICULTURAL DEFINED. Agricultural means promoting the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock. Incorporated granges as set out in RCW 24.28 are encompassed within this definition.

**NEW SECTION**

WAC 230-02-191 AGRICULTURAL FAIR DEFINED. Agricultural fair means those activities authorized by RCW 15.76 and RCW 36.37 and includes the exhibition of livestock, agricultural produce of all kinds, products of the farm home and educational contests, and displays and demonstrations designed to train youth and promote the welfare of farm and rural living.

**NEW SECTION**

WAC 230-04-005 GAMBLING LICENSE CERTIFICATION PROGRAM. The Gambling License Certification Program is an investigative licensing process in which all applicants are assessed and evaluated against the standards and requirements contained in Chapter 9.46 RCW. All applicants that meet the qualifications for licensing will be certified by the Commission for an initial license and are subject to recertification by the Commission on an annual basis.

**AMENDATORY SECTION** (Amending Order 5, filed 12/19/73)

**WAC 230-04-010 CERTIFICATION PROCEDURE – APPLICATION FORMS.** Each application for a license from the commission shall be submitted on the license application form approved by the commission. These application forms may be obtained ((by coming in person to, or writing to, the offices of the commission in Olympia. From time to time the commission may designate additional locations where application forms may be obtained and shall make these locations public by notifying the news media.)) from any office of the Commission.

**AMENDATORY SECTION** (Amending Order 172, filed 10/9/87)

**WAC 230-04-020 ((APPLICATION)) CERTIFICATION PROCEDURE – GENERAL REQUIREMENTS – MANDATORY TRAINING REQUIRED.** Applicants for license from the commission shall submit applications with the fee as established by WAC 230-04-201 to the office of the commission in Olympia. The information requested on the appropriate application form is required to be submitted by each applicant for a license.

(1) The application shall be signed under oath by the highest ranking ((executive)) officer of a charitable, nonprofit or profit seeking corporation, such as the president of a firm or club or the head pastor or minister of a church; or by the principal owner of a profit seeking business. Other persons, including but not limited to, the chairman of a board of directors or trustees, the person in charge of the financial records, or persons having a substantial interest in the applicant business and/or charitable nonprofit organization, may at the commission director's discretion be required to sign the application. When the application is being submitted by or on behalf of an incorporated city or town in the state of Washington, the application must be signed by the mayor or the mayor's designated representative.

(2) Each such person shall acknowledge that he assumes full responsibility for the fair and lawful operation of all licensed activities that the applicant conducts.

(3) The commission will consider only those applicants submitting the form and fully completing all the applicable portions of the form. Each applicant shall certify under oath that the information set forth in the application and any accompanying materials is true, accurate and complete.

(4) The application form and all information set forth therein and all supplemental information submitted at the commission's request, except statements as to arrests of any person, shall constitute public records and the entire contents thereof may, at the discretion of the commission, be disclosed to the public or discussed at the public meetings of the commission.

(5) The commission shall issue the license applied for only after it is satisfied that the applicant is qualified to operate the activity for which the license is being requested. The commission will refrain from issuing the license until the person that signed the application form and the designated person responsible for the gambling activity has completed a training course as established and provided by the commission and until the completion of such review and investigation as the commission deems necessary. Provided: Mandatory training shall not be required for licensing of manufacturers; manufacturers representatives; recertification of existing licenses, unless there has been a change in the highest ranking ((executive)) officer since the issuance of the license; and for licensees with special circumstances as approved by the director.

**NEW SECTION**

**WAC 230-04-022 CERTIFICATION PROCEDURE – INFORMATION REQUIRED FROM ALL APPLICANTS.** In addition to other information required by the commission, each applicant shall provide the following information on or attached to the application:

(1) Copy of corporate applicants' articles of incorporation and bylaws; or, if not a corporation, a copy of any bylaws and other documents which set out the organizational structure and purposes of the organization;

(2) A copy of a nonprofit or charitable applicant's Internal Revenue Service tax exemption letter if one has been obtained;

(3) Details and copies of all lease or rental arrangements, whether oral or written, between the applicant and the owner of premises upon which the gambling activity will be conducted, if such premises are leased or rented;

(4) Details and copies of any and all franchise agreements or other agreements, whether written or oral, if any, between the applicant and distributors or manufacturers of equipment or between the applicant and any other person where those agreements relate to gambling activities or gambling equipment;

(5) The name, address, date of birth, and Social Security number of each paid employee or agent who will work in the activity for which the license is sought and a schedule of the proposed number of employees, job descriptions, and a proposed pay schedule;

(6) For each person listed below, a completed copy of the commission's form entitled "Personal information form":

(a) Each person who has a substantial interest in the applicant;

(b) Each person who is the chief executive officer, the chairman of a board, and the financial records officer of a corporation and/or bona fide nonprofit charitable organization;

(c) Each person who will serve in a supervisory capacity over those persons in the direct management or direct operation of the activity for which the license is sought;

(7) If any information required on the application, changes or becomes inaccurate in any way, the commission shall be notified prior to issuance of a license. Failure to notify the commission of any changes affecting an application may constitute grounds for suspension or revocation of all licenses.

(8) Sections (1), (2), and (6) shall not apply to applications by or on behalf of an incorporated city or town in the state of Washington.

**NEW SECTION**

**WAC 230-04-024 CERTIFICATION PROCEDURE – CHARITABLE AND NONPROFIT ORGANIZATIONS – QUALIFICATIONS.** To qualify for a gambling license, an organization must be a bona fide charitable or nonprofit organization as that term is defined in RCW 9.46.0209. A bona fide charitable or nonprofit organization must demonstrate in its initial application and in future annual certification reports, that progress has been made toward meeting its organizational purpose(s) as required by RCW 9.46.0209.

(1) The following bona fide charitable or nonprofit organizations are authorized to conduct gambling activities:

(a) Any organization duly existing under the provisions of chapters 24.12, 24.20, or 24.28 RCW.

(b) Organizations whether incorporated or not, which are organized and operating for one or more of the following purposes:

- (i) Charitable;
- (ii) Benevolent;
- (iii) Eleemosynary;
- (iv) Educational;
- (v) Civic;
- (vi) Patriotic;
- (vii) Political;
- (viii) Social;
- (ix) Fraternal;
- (x) Athletic; or
- (xi) Agricultural.

(c) Any agricultural fair authorized under the provisions of chapter 15.76 or 36.37 RCW.

(d) Any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the Armed Forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the suffering caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same.

(e) An incorporated city or town in the state of Washington.

(2) A branch or chapter of a parent organization, which parent organization is itself eligible for licensure, must demonstrate to the satisfaction of the commission that the branch or chapter was not established and is not and will not be organized and operated with the evasion of the limitations of state law or commission rule on the operation of gambling activities as one of its purposes. The branch or chapter must be organized and operating for one of the purposes set out in subparagraph (1) above and be otherwise qualified to obtain the license sought. The director may require an affidavit signed by the chief executive officers of the parent organization certifying that the branch or chapter is a bona fide subdivision of the parent organization.

(3) Each applicant shall be required to provide in its bylaws or, if incorporated, in its articles of incorporation, a statement of dissolution which requires that all assets of the organization remaining upon dissolution after satisfying its debts be distributed to another bona fide

nonprofit or charitable organization which has been granted IRS exemption, unless otherwise exempted from this requirement by the commission.

(4) An organization demonstrating an excessive accumulation of cash or other assets, not primarily related to its organizational purpose(s), may be deemed as being organized primarily for purposes of gambling and therefore ineligible for licensing pursuant to RCW 9.46.0209. For the purposes of this subsection, the following definitions apply:

(a) Organizational Purpose(s) – one or more of the lawful purposes contained in RCW 9.46.0209 for which an organization is formed and operated;

(b) Excessive accumulation – amounts over and above the licensee's liabilities due within one year, plus all expenses of the organization for a six month period. This computation shall be based on the most current financial data on file;

(c) Cash – actual cash, demand deposits, certificates of deposit, money market funds, securities, or other liquid assets;

(d) Other assets not primarily related to the purpose of the organization – any assets which would not be normally associated with providing charitable or nonprofit services or for providing revenues necessary to conduct such activities.

#### NEW SECTION

**WAC 230-04-035 CERTIFICATION PROCEDURE – CHARITABLE AND NONPROFIT ORGANIZATIONS – CLASSIFICATION OF PURPOSE.** (1) Each organization requesting a license to conduct gambling shall be classified as either a "charitable organization" or a "nonprofit organization." The classification will be based upon an organization's primary purpose as set forth below:

(a) If an organization is classified as a "charitable organization," its primary purpose shall be charitable as defined in WAC 230-02-160.

(b) If an organization is classified as a "nonprofit organization," it will be assigned one or more of the purposes set forth in WAC 230-02-161 as its primary purpose(s).

For the purposes of this classification, the term primary purpose shall mean the lawful purpose to which a majority of an organization's fiscal year income was spent or dedicated. If an organization did not use a majority of its income for any single purpose, the purpose to which the greatest percentage of its income was devoted shall be an organization's primary purpose.

(2) In determining an organization's primary purpose, the Commission staff shall review the organization's declaration of purpose, reported achievements, and expenditures during the preceding twelve months.

(3) An organization may challenge its assigned purpose, by submitting to the Director additional evidence supporting its choice. The Director shall then issue a written decision as to the organization's primary purpose. The Director's decision may be reviewed by the Commission upon written request.

#### NEW SECTION

**WAC 230-04-040 CERTIFICATION PROCEDURE – CHARITABLE AND NONPROFIT ORGANIZATIONS – ADDITIONAL INFORMATION REQUIRED.** (1) Any organization requesting a license to conduct bingo in Group I or any organization requesting a license to conduct non-bingo activities with annual gross gambling receipts of less than \$500,000 shall submit the information required in the annual certification report pursuant to WAC 230-08-122(1) as a condition of certification.

(2) Any organization requesting a license or license upgrade to conduct bingo in Group II or III, or to conduct any other gambling activity in excess of \$500,000 gross gambling receipts, shall submit the information required in the annual certification report pursuant to WAC 230-08-122 (1), (2), and, if applicable, (3) as a condition of certification.

#### NEW SECTION

**WAC 230-04-064 CERTIFICATION PROCEDURE – ALL LICENSES – FORMAL COMMISSION APPROVAL.** (1) Charitable and Nonprofit Organizations – To ensure that only bona fide charitable or nonprofit organizations are granted the privilege of raising

funds from authorized gambling activities, the Commission shall annually certify the qualifications of each organization requesting a license to conduct such activities. As a part of this process, each organization shall affirmatively demonstrate that progress has been made in meeting its purpose(s) by submitting required information and answering such inquiries as deemed necessary by the commission. The certification process shall be completed as follows:

(a) All organizations requesting certification for a license to conduct bingo in Group I, or to conduct any other gambling activity, shall be reviewed by the Commission staff and forwarded to the Commission for review and certification.

(b) Any organization requesting certification or an upgrade for a license to conduct bingo in Group II shall be reviewed by the Commission staff and a qualification summary shall be prepared and provided to the Commission for review and certification. The Commission may require additional information, or if warranted, call for a Special Review pursuant to WAC 230-12-060. In the event additional information or a Special Review is required, a temporary or conditional license shall be issued pending completion of the review process;

(c) Any organization requesting certification or an upgrade for a license to conduct bingo in Group III shall complete a Formal Review as a condition of initial certification and annually thereafter: Provided, that an organization shall be exempted from this requirement if a Formal Review has been completed within the last two years. If exempted, the procedures in subparagraph (b) above shall apply. The Formal Review shall be at a scheduled open meeting of the Commission and, when possible, held in the general area which encompasses the organization's service area. The review will cover the organization's most recent Annual Certification and Financial Report as required by WAC 230-08-122: Provided, if an organization desires to submit additional information, it must submit that information at least twenty days prior to the date of its scheduled review. The organization must be represented by at least a majority of its board of directors, its chief executive officer, and the primary Bingo Manager. Provided, the majority requirement may be waived for good cause shown. Good cause includes economic hardship due to geographic proximity, or other factors outside a board member's control that would limit the ability to attend. The organization may solicit testimony from clients, local social and welfare providing agencies, other public agencies, and other charitable or nonprofit organizations. The Commission may solicit information from the public or any other interested parties and shall notify local law enforcement agencies of the time and location of the review. The Formal Review will include a thirty minute session for the organization to brief the Commission on the progress made during its previous fiscal year in achieving its purposes, including the extent to which bingo income was used for charitable as opposed to nonprofit services and planned uses for any bingo income remaining from the previous fiscal year.

At the conclusion of the Formal Review, the Commission will either formally certify the organization as qualified to be licensed, or require additional information for further review. If warranted, the Commission may call for a Special Review. If the Commission requires additional information, or calls for a Special Review, a temporary or conditional license will be issued pending completion of the review process.

(2) Commercial, Individual and All Other Licensees – After the staff has completed its review of a new application or a request for a recertification, the Commission shall certify at a public meeting that each applicant is qualified to be licensed.

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION (Amending Order 140 [179], filed 6/15/84 [6/14/88])**

**WAC 230-04-065 ((SIMPLIFIED APPLICATION FORM AUTHORIZED FOR LOWER VOLUME GAMBLING ACTIVITIES)) CERTIFICATION PROCEDURE – BONA FIDE CHARITABLE AND NONPROFIT ORGANIZATION – LOWER VOLUME-SIMPLIFIED APPLICATION.** (1) The director may prepare a simplified license application form for ((bona fide charitable and nonprofit organizations conducting)) at least the following activities:

- (a) Fund raising events (All classes);
- (b) Bingo (Classes A, (and B, and C);

(c) Raffles (Classes ((f)) A, B, ((and)) C, and D); and  
 (d) Amusement games (Classes A, B, C, and ((E)) D)(-); and  
 (e) Card Games (Classes C and D).

(2) The simplified application form shall follow the same procedure as required by WAC 230-04-020.

(3) At the minimum, the following information and documents shall be submitted with the application:

(a) Copy of a corporate applicant's articles of incorporation and by-laws or, if not incorporated, a copy of any bylaws and other documents which set out the organizational structure and purposes for which a noncorporate organization applicant was formed and operates. If the above documents are not available, an affidavit of the chief officer or responsible person with the organization setting out the purpose for which the organization exists and operates;

(b) A copy of the tax exemption letter from the United States Internal Revenue Service or information as to whether such exemption has been applied for and denied;

(c) The name, address and date of birth of each employee who will participate in the operation of, and of each person who will participate in the management of, the activity for which the license is sought;

(d) The name, address and date of birth of each person who has any interest in the gambling activity for which the license is sought, the building within or premises upon which the activity will occur or the equipment to be used for such gambling activity;

(4) Refer to WAC 230-20-400 for certain other exemptions subsequent to issuance of license(s). These exemptions and those referred to in WAC 230-08-015, do not apply to fund raising events.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

#### AMENDATORY SECTION (Amending Order 179, filed 6/14/88)

**WAC 230-04-190 ISSUANCE OF LICENSE.** (1) Charitable and nonprofit organizations and agricultural fairs. The commission may issue a license to qualified bona fide charitable or nonprofit organizations or to qualified agricultural fairs to operate each of the following activities upon a specified location:

- (a) Bingo;
- (b) Raffles;
- (c) Amusement games;
- (d) Punchboards and pull tabs;
- (e) Social cards; and

(2) Fund raising event as defined in RCW 9.46.0233. The commission may issue a license to a bona fide charitable or bona fide nonprofit organization defined in RCW 9.46.0209, other than any agricultural fair defined therein, to conduct fund raising events.

(3) Special amusement game license. The commission may issue a license to any person, association or organization other than a bona fide charitable or bona fide nonprofit organization to conduct amusement games only at one or more of the locations set out by the commission in WAC 230-20-380.

(4) Commercial stimulant card games. The commission may issue a license to persons operating a business primarily engaged in the selling of items of food or drink for consumption on the premises operating under the authority of a license or permit for the business issued by the state, district or local health officer, and/or a license issued by the Washington state liquor control board, to allow a specified portion of a specified premises to be used by persons to play authorized card games.

(5) Public card room employee. The commission may issue a license to a person to perform duties in a public card room.

(6) Commercial stimulant punchboards and pull tabs. The commission may issue a license to a person operating a business primarily engaged in the selling of items of food or drink for consumption on the premises operating under the authority of a license or permit for the business issued by the state, district or local health officer, and/or a license issued by the Washington state liquor control board, to operate punchboards and pull tabs upon specified premises.

(7) Punchboard and pull tab manufacturer and distributor. The commission may issue a separate license to:

- (a) Punchboard and pull tab manufacturers;
- (b) Distributors to sell and distribute punchboards and pull tabs and related equipment within the state of Washington,

(c) Manufacturer's representatives to sell and distribute punchboards and pull tabs and related equipment on behalf of the manufacturer in the state of Washington, and

(d) Distributor's representatives to sell and distribute punchboards and pull tabs and related equipment on behalf of the distributor in the state of Washington.

(8) License expiration. Each such license shall be valid for one year from the date that it is issued: Provided, That:

(a) All annual licenses for punchboard and pull tab and Class ((E)) D and above bingo shall be issued with an expiration date adjusted to expire on March 31, June 30, September 30, or December 31((; whichever)); Punchboard and pull tab licenses shall expire on the above date that is closest to the license issuance date and does not exceed one year. Class D and above bingo licenses shall expire on the above date that is closest to licensee's fiscal year end plus at least six months. All other applicants or licensees may request specific license expiration dates to correspond with the above dates. Whenever license expiration dates are adjusted under this provision, the required fee shall be prorated by the commission. Th((is))e prorat((img))ed ((of)) fees shall be computed on a monthly basis (i.e., one-twelfth of the annual payment per month) and subtracted from the regular annual fee. ((Prorating shall)) A prorated fee will be based on the number of whole months remaining upon approval of a license. For the purposes of this proration, any part of a month in which the activity is licensed shall be deemed to be a whole month when computing an annual fee. Any difference between the required fee which exceeds twenty dollars, shall be refunded to the applicant.

(b) Licenses issued to conduct any authorized activity in connection with and upon the site of a qualified agricultural fair, qualified community-wide civic festival, qualified world's fair, or qualified civic center shall be valid only for the duration of the fair or festival, or, in the case of an activity at a civic center, for the seasons during which the civic center is operating and open to the public. In no event shall such license exceed one calendar year.

(c) Notwithstanding the provisions of subsection (a), a license issued ((for the)) to conduct ((of)) a raffle in connection with a qualified agricultural fair, qualified community-wide civic festival or qualified world's fair shall ((authorize the licensee to sell tickets for said raffle at any time during the period from the issuance of the license)) be in effect from the date the license was issued through the conclusion of the fair or festival.

(d) A ((t))license((s)) issued ((for)) to conduct a card tournaments shall be valid only for the duration of the tournament, but in no event shall exceed ten consecutive days.

(e) A ((t))license((s)) issued ((for)) to conduct a fund raising events shall be valid for one year from the date issued but the event (or events) permitted under the license shall be held only at the place and time set forth in the application or otherwise approved by the commission. The number of events permitted under the license in any calendar year is subject to the limitations set out in RCW (([9.46.020-33]) 9.46.0233((t))) defining a fund raising event((s)).

(f) A ((t))license((s)) issued to an individual((s)) shall be valid for a period of one year from the date of employment or issuance, whichever occurs first: Provided, ((that, licenses issued to)) a bingo game manager((s)) license shall expire as set out in WAC 230-04-145.

(g) If ((the)) any licensee fails to renew ((the)) a license prior to ((the)) its expiration date, the license shall expire. ((The licensee)) A new application must ((reapply for licensure according to the statutory and regulatory conditions then in force as would any other person)) then be submitted.

(h) Licenses approved under the six month payment plan shall be issued with an expiration date of six months from the license approval date or the original license expiration date, whichever is applicable. Upon receipt and validation of the second half payment, a licensee may be granted a second license for an additional six month period. Second half payments must be received by the commission on or before the due date. If the licensee fails to submit the second half of the fee payment(s) as established by WAC 230-04-201 prior to the expiration date, the license shall expire.

(9) Conditions of license issuance. All activities so licensed are licensed subject to compliance with all of the applicable provisions of chapter 9.46 RCW, including any amendments thereto, all applicable rules and regulations passed by the commission, all other applicable laws of the United States, the state of Washington and all political subdivisions of the state of Washington.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

#### AMENDATORY SECTION (Amending Order 179, filed 6/14/88)

WAC 230-04-201 FEES. Tables 1 and 2 contain the fees that shall be paid to the commission for gambling licenses, permits, miscellaneous changes, and special investigative and inspection services.

Table 1. (For bona fide nonprofit/charitable organizations)

| LICENSE TYPE              | DEFINITION   | FEE              |
|---------------------------|--|------------------|
| 1. AMUSEMENT GAMES        | (Fee based on annual net receipts)   |                  |
| Class A                   | \$500 or less  | \$ 35            |
| Class B                   | \$501 - 1,000  | 50               |
| Class C                   | \$1,001 - 5,000  | 75               |
| Class D                   | \$5,001 - 15,000   | 250              |
| Class E                   | over \$15,000  | 350              |
| 2. BINGO GROUP            | (Fee based on annual gross receipts)   |                  |
| <u>I</u> CLASS            | Up to \$((+0,000)) 15,000  | \$ 50            |
| Class A                   | \$ ((+0,000)) 15,001 to 50,000   | 150              |
| Class B                   | \$ 50,001 to 100,000   | ((500)) 300      |
| Class C                   | \$ 100,001 to 300,000  | 800              |
| Class D                   | \$ 300,001 to 500,000  | ((+500)) 1,350   |
| Class E                   | \$ 500,001 to 1,000,000  | ((3,000)) 2,700  |
| Class F                   | \$ 1,000,001 to 1,500,000  | ((+4,000)) 3,900 |
| <u>II</u> CLASS           | \$ 1,500,001 to 2,000,000  | ((5,000)) 5,200  |
| Class G                   | \$ 2,000,001 to 2,500,000  | ((6,000)) 6,500  |
| Class H                   | \$ 2,500,001 to 3,000,000  | ((7,000)) 7,800  |
| <u>III</u> CLASS          | \$ 3,000,001 to 3,500,000  | ((8,000)) 8,750  |
| Class K                   | \$ 3,500,001 to 4,000,000  | 10,000           |
| Class L                   | Over \$4,000,000   | 11,250           |
| 3. BINGO GAME MANAGER     | Original<br>Renewal  | \$ 150<br>75     |
| 4. CARD GAMES             |  |                  |
| Class A                   | General (fee to play charged)  | \$ 500           |
| Class B                   | Limited card games - to hearts, rummy, mah-jongg, pitch, pinochle, ((coo=can)) and/or cribbage - (fee to play charged) | 150              |
| Class C                   | Tournament only - no more than ten consec. days per tournament   | 50               |
| Class D                   | General (no fee to play charged)   | 50               |
| Class R                   | Primarily for recreation (WAC 230-04-199)  | 25               |
| 5. CHANGES                |  |                  |
| NAME                      | (See WAC 230-04-310)   | \$ 25            |
| LOCATION                  | (See WAC 230-04-320)   | 25               |
| FRE                       | (Reno Nite date(s)/time(s))  | 25               |
| LICENSE CLASS             | (See WAC 230-04-325)   | 25               |
| DUPLICATE LICENSE         | (See WAC 230-04-260) New class fee, less previous fee paid, plus   | 25               |
| REPLACEMENT               | (See WAC 230-04-290)   | 25               |
| IDENTIFICATION STAMPS     | (See WAC 230-30-016)   | 25               |
| 6. FUND RAISING EVENT     |  |                  |
| Class A                   | One event not more than 24 consec. hrs.  | \$ 300           |
| Class B                   | One event not more than 72 consec. hrs.  | 500              |
| Class C                   | Additional participant in joint event (not lead organization)  | 150              |
| 7. PERMITS                | Agricultural fair/special property bingo   |                  |
| Class A                   | One location and event only (see WAC 230-04-191)   | \$ 25            |
| 8. PUNCHBOARDS/ PULL TABS | (Fee based on annual gross receipts) <u>(One Time Variance)</u>  |                  |
| Class A                   | Up to \$((+0,000)) 50,000  | \$ ((300)) 360   |
| Class B                   | Up to \$((50,000)) 100,000   | ((+75)) 675      |
| Class C                   | Up to \$((+100,000)) 200,000   | ((960)) 1,300    |
| Class D                   | Up to \$((200,000)) 300,000  | ((+560)) 1,900   |
| Class E                   | Up to \$((300,000)) 400,000  | ((2,360)) 2,450  |

| LICENSE TYPE | DEFINITION                           | FEE            |
|--------------|--------------------------------------|----------------|
| Class F      | Up to \$((400,000))                  | \$10,000       |
| Class G      | Up to \$((500,000))                  | \$10,000       |
| Class H      | Up to \$((600,000))                  | \$10,000       |
| Class I      | Up to \$((700,000))                  | \$10,000       |
| Class J      | Up to \$((800,000))                  | \$20,000       |
| Class K      | ((Over \$800,000)) Up to \$1,250,000 | \$25,000       |
| Class L      | Up to \$1,500,000                    | \$25,000       |
| Class M      | Up to \$1,750,000                    | \$25,000       |
| Class N      | Up to \$2,000,000                    | \$25,000       |
| Class O      | Over \$2,000,000                     | Non-Applicable |

A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260; Provided, a licensee utilizing the variance shall be required to upgrade upon recertification.

|     |  |  |   |
|-----|--|--|---|
| 9.  | RAFFLES  | (Fee based on annual gross receipts)   |   |
|     | Class A  | Up to \$ 5,000   | \$ 50   |
|     | Class B  | Up to \$10,000   | 150   |
|     | Class C  | Up to \$25,000   | 300   |
|     | Class D  | Up to \$50,000   | 500   |
|     | Class E  | Up to \$75,000   | 800   |
|     | Class F  | Over \$75,000  | 1,200   |
| 10. | SEPARATE PREMISES<br>BINGO   | Occasion (see WAC 230-04-300)  | \$ 25   |
| 11. | SPECIAL FEES<br>INVESTIGATION<br>IDENTIFICATION AND<br>INSPECTION STAMP<br>EXCEEDING LICENSE CLASS | (See WAC 230-04-240)<br><br>(See WAC 230-30-015 and 230-30-030)<br>(See WAC 230-04-260)<br>In addition to all normal license fees,<br>a licensee may be assessed an exceeding class fee<br>for a present or previous license year, not to exceed<br>50% of the difference between the present class fee<br>and the new license class or \$1,000, whichever is less.  | As required<br><br>As required<br>As required |
| 12. | SIX-MONTH PAYMENT PLAN   | The Commission may allow an applicant renewing an annual license or an applicant applying for an additional license with a fee of \$800 or above, to pay a license fee in two payments.<br><br>SIX-MONTH PAYMENT PLAN PROCEDURE:<br>The administrative processing fee, plus the first half of the annual license fee must be submitted at the time of application/renewal. The second half payment must be submitted and received in the Commission's Olympia headquarters office, prior to the expiration date of the first six-month period: Provided, That participants electing the six-month payment plan will be limited to 50% of the authorized class limitation for annual gross receipts during the first six month period.<br>Licensees exceeding 50% of the authorized level shall be required to upgrade to the appropriate license class as required by WAC 230-04-260 and pay the full upgrade fee, plus \$25.00. | \$ 25   |

Table 2. (For commercial stimulant/profit seeking organizations)

| LICENSE TYPE  | DEFINITION   | FEE    |
|---------------|--|--------|
| 1. CARD GAMES |  |        |
| Class B       | (Fee to play charged) limited card games – to hearts, rummy, pitch, pinochle, mah-jongg, ((coo=can)) and/or cribbage Tournament only, no more than ten consecutive days per tournament | \$ 150 |
| Class C       | General (no fee to play charged)   | 50     |
| Class D       | General (fee to play charged)  |        |
| Class E       |  |        |
| E-1           | One table only   | 350    |
| E-2           | Up to two tables   | 600    |
| E-3           | Up to three tables   | 1,000  |
| E-4           | Up to four tables  | 2,000  |

| LICENSE TYPE  | DEFINITION   | FEE   |
|---|--|---|
| E-5   | Up to five tables  | 3,000   |
| 2. CHANGES<br>NAME<br>LOCATION<br>BUSINESS<br>CLASSIFICATION<br>LICENSE CLASS<br><br>DUPLICATE LICENSE<br>OWNERSHIP OF STOCK<br>REPLACEMENT<br>IDENTIFICATION STAMPS<br>LICENSE TRANSFERS | (See WAC 230-04-310)<br>(See WAC 230-04-320)<br><br>(Same owners – see WAC 230-04-340(3))<br>(See WAC 230-04-260) New class fee, less previous fee paid, plus<br>(See WAC 230-04-290)<br>(See WAC 230-04-340(!))<br><br>(See WAC 230-30-016)<br>(See WAC 230-04-125, 230-04-340 and 230-04-350)  | \$ 25<br>25<br>50<br>25<br>25<br>50<br><br>25<br>25<br>50<br><br>25<br>25<br>50<br><br>25<br>25<br>50   |
| 3. DISTRIBUTOR  | (Fee based on annual gross receipts)<br><br>((up to \$600,000)) Non-Punchboard/Pull Tab Only<br>((over \$600,000)) Up to \$250,000<br>\$ 250,001 to \$ 500,000<br>\$ 500,001 to \$ 1,000,000<br>\$ 1,000,001 to \$ 2,500,000<br>Over \$2,500,000<br><br>In addition to the annual fee, the Commission will assess all applicants the actual costs incurred in conducting the initial investigation and inspection necessary for certification.                         | ((Original      Renewal))<br>\$((2,750 - \$1,250)) 500<br>\$((2,750 - \$1,700)) 1,000<br>\$1,500<br>\$2,000<br>\$2,600<br>\$3,200   |
| 4. DISTRIBUTOR's REPRESENTATIVE   | Original<br>Renewal  | \$ ((220)) 200<br>((+10)) 125   |
| 5. MANUFACTURER   | ((Original<br>Renewal<br>(Fee based on annual gross receipts)<br>Machines Only<br>Up to \$250,000<br>\$ 250,001 to \$ 500,000<br>\$ 500,001 to \$ 1,000,000<br>\$ 1,000,001 to \$ 2,500,000<br>Over \$2,500,000<br><br>In addition to the annual fee, the Commission will assess all applicants the actual costs incurred in conducting the initial investigation and inspection necessary for certification.  | \$3,300<br>+650<br>\$ 500<br>\$1,000<br>\$1,500<br>\$1,500<br>\$2,000<br>\$2,600<br>\$3,200   |
| 6. MANUFACTURER's REPRESENTATIVE  | Original<br>Renewal  | \$ ((220)) 200<br>((+10)) 125   |
| 7. PERMITS<br>Class A<br>Class B  | Agricultural fair/special property bingo<br>One location and event only (see WAC 230-04-191)<br>Annual permit for specified different events and locations (see WAC 230-04-193)  | \$ 25<br>150  |
| 8. PUBLIC<br>CARD ROOM<br>EMPLOYEE  | Original<br>Renewal  | \$ 150<br>75  |
| 9. PUNCHBOARDS/<br>PULL TABS<br>Class A<br>Class B<br>Class C<br>Class D<br>Class E<br>Class F<br>Class G<br>Class H<br>Class I<br>Class J  | (Fee based on annual gross receipts) (One Time Variance)<br>Up to \$((+0,000)) 50,000 \$5,000<br>Up to \$((50,000)) 100,000 \$5,000<br>Up to \$((+100,000)) 200,000 \$10,000<br>Up to \$((200,000)) 300,000 \$10,000<br>Up to \$((300,000)) 400,000 \$10,000<br>Up to \$((400,000)) 500,000 \$10,000<br>Up to \$((500,000)) 600,000 \$10,000<br>Up to \$((600,000)) 700,000 \$10,000<br>Up to \$((700,000)) 800,000 \$10,000<br>Up to \$((800,000)) 1,000,000 \$20,000 | \$ ((300)) 360<br>((+475)) 675<br>((960)) 1,300<br>((+1,560)) 1,900<br>((2,360)) 2,450<br>((3,150)) 2,925<br>((3,775)) 3,375<br>((4,350)) 3,775<br>((4,825)) 4,150<br>((5,225)) 4,725 |

| LICENSE TYPE   | DEFINITION  | FEE   |
|--|---|---|
| Class K  | ((Over \$800,000)) Up to \$1,250,000  | \$25,000                                      |
| Class L  | Up to \$1,500,000   | \$25,000                                      |
| Class M  | Up to \$1,750,000   | \$25,000                                      |
| Class N  | Up to \$2,000,000   | \$25,000                                      |
| Class O  | Over \$2,000,000  | Non-Applicable                                |
|  | A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260; Provided, a license utilizing the variance shall be required to upgrade upon recertification.   |   |
| 10. SPECIAL FEES<br>INVESTIGATION<br>IDENTIFICATION AND<br>INSPECTION STAMP<br>EXCEEDING LICENSE CLASS | (See WAC 230-04-240)<br><br>(See WAC 230-30-015 and 230-30-030)<br>(See WAC 230-04-260)<br>In addition to all normal license fees, a licensee may be assessed an exceeding class fee for a present or previous license year, not to exceed 50% of the difference between the present class fee and the new license class or \$1,000, whichever is less.   | As Required<br><br>As Required<br>As Required |
| 11. SPECIAL LOCATION<br>AMUSEMENT GAMES  | (Fee based on annual net receipts)  |   |
| Class A  | One event per year lasting no longer than 12 consecutive days   | \$ 500  |
| Class B  | \$25,000 or less  | 500   |
| Class C  | \$25,001 - 100,000  | 1,500   |
| Class D  | \$100,001 - 500,000   | 3,000   |
| Class E  | Over \$500,000  | 5,000   |
| 12. SIX-MONTH PAYMENT PLAN   | The Commission may allow an applicant renewing an annual license or an applicant applying for an additional license with a fee of \$800 or above, to pay a license fee in two payments.<br><br>SIX-MONTH PAYMENT PLAN PROCEDURE:<br>The administrative processing fee, plus the first half of the annual license fee must be submitted at the time of application/renewal. The second half payment must be submitted and received in the Commission's Olympia headquarters office, prior to the expiration date of the first six-month period: Provided, That participants electing the six-month payment plan will be limited to 50% of the authorized class limitation for annual gross receipts during the first six month period. Licensees exceeding 50% of the authorized level shall be required to upgrade to the appropriate license class as required by WAC 230-04-260 and pay the full upgrade fee, plus \$25.00. | \$ 25   |

AMENDATORY SECTION (Amending Order 144, filed 1/9/85)

WAC 230-08-095 MINIMUM STANDARDS FOR CLASS ((E)) D AND LARGER BINGO GAMES—MONTHLY AND ANNUAL ACCOUNTING RECORDS. ((A double entry accounting system shall be maintained by all bingo licensees, except Class A and B:

((1) This system shall include all receipts and disbursements of the licensee, including but not limited to, those related to bingo, and shall conform to generally accepted accounting principles, except as modified by other commission rules or instructions for activity reports:

The preferable method of accounting shall be the accrual method. The cash basis or modified cash basis shall be acceptable accounting system methods only as long as they accurately represent the results of operations. The accrual method is mandatory where the licensee has substantial liabilities or substantial expenses not requiring a current outlay of cash, such as depreciation or amortization expenses.

At minimum, the double entry system shall include all records required by other sections of this WAC, a monthly cash disbursements journal (check register), a monthly sales journal (cash receipts journal), plus a listing of all assets and liabilities. Licensees with substantial assets and liabilities or licensed to receive more than \$300,000

bingo gross receipts must have a complete general ledger system.)) Each operator of bingo games licensed in class D or above shall maintain accounting records necessary to document all receipts and disbursements of the licensee, including but not limited to those related to bingo. This accounting system shall be double entry and conform to general accepted accounting principles (GAAP), except as modified by other commission rules and instructions for activity reports. All income shall be recorded when earned and all expenses recorded when incurred (accrual accounting method): Provided, that the cash, modified cash, or tax basis accounting methods shall be allowed if they accurately represent the licensee's financial position and results of operations and have been approved by the commission. The accrual method is mandatory when a licensee has substantial liabilities or expenses not requiring a current outlay of cash, such as depreciation or amortization expenses.

((1) The minimum accounting records required shall include:  
(a) A cash disbursements journal and/or check register;  
(b) A cash receipts and/or sales journal;  
(c) A listing of all assets and liabilities; and  
(d) A complete general ledger system must be maintained if the licensee has substantial assets and/or liabilities or, if licensed to receive more than \$300,000 in gambling receipts.

(2) All expenditures by the licensee relating to gambling activities, shall be sufficiently documented in the following manner:

(a) Invoices or other appropriate supporting documents from commercial vendors or service agencies should contain at least the following details:

- (i) The name of the person or entity selling the goods or providing the service;
- (ii) A complete description of goods or services purchased;
- (iii) The amount of each product sold or service provided;
- (iv) The price of each unit;
- (v) The total dollar amount billed; and
- (vi) The date of the transaction.

(b) Disbursements, in excess of twenty-five dollars, made directly to individuals, who do not furnish normal, business type, invoices or statements, should be supported by other written documentation indicating at least the following details:

- (i) The name of the person receiving the payment;
- (ii) The amount;
- (iii) The date; and
- (iv) The purpose.

(c) Normally, cancelled checks and/or bank statements without further support, such as listed in (2)(a) and (b) above, are not considered sufficient documentation.

(3) All expenditures by the licensee relating to nongambling activities shall be sufficiently documented to provide an audit trail satisfactory to allow verification that the funds were used for the organization's purpose(s) and ((with)) conforms to generally accepted accounting principles.

#### AMENDATORY SECTION (Amending Order 147, filed 2/22/85)

**WAC 230-08-120 QUARTERLY ACTIVITY REPORT BY OPERATORS OF BINGO GAMES (LICENSE CLASS ((E)) D AND ABOVE).** Each ((licensee for the operation of)) organization licensed to conduct bingo games ((((licensee)) in Class ((E)) D and above((conducted by bona fide charitable or nonprofit organizations)))) shall submit an activity report to the commission concerning the licensed activity and other matters set forth below during each of the following periods of the year:

January 1st through March 31st

April 1st through June 30th

July 1st through September 30th

October 1st through December 31st

If the licensee does not renew ((his)) its license, then ((he)) it shall file a report for the period between the previous report filed and the expiration date of ((his)) its license.

The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the highest ranking ((executive)) officer or his/her designee. If the report is prepared by someone other than the licensee or ((his)) an employee, then the preparer shall also sign the report and print his/her name and phone number on the report.

The report shall be completed in accordance with the related instructions furnished with the report. The report shall include, among other items, the following:

(1) The gross gambling receipts from bingo, by month.

(2) The total amount of cash prizes actually paid out and the total of the cost to the licensee of all merchandise prizes actually paid out by month.

(3) The net gambling receipts, by month.

(4) Full details on all expenses directly related to bingo, including at least the following:

(a) ((A listing of)) Wages, monies, or things of value paid or given to each person connected with the management, promotion, conduct or operation of the bingo game ((along)) together with ((his duties, hours and wages,)) an attachment setting out the following:

(i) Name;

(ii) Duties performed;

(iii) Hours worked; and

(iv) Wages, monies or things of value paid or given for conducting bingo activities. When an employee works in more than one activity, the total hours worked and total wages shall also be reported.

(b) A statement describing the allocation method used in allocating common use expenses; and

- (c) A detailed listing of all items included under "other."
- (5) The net income.
- (6) The total number of customers participating.
- (7) The total number of sessions held.

#### NEW SECTION

**WAC 230-08-122 ANNUAL CERTIFICATION AND FINANCIAL REPORT - ALL NONPROFIT AND CHARITABLE ORGANIZATIONS.** (1) Every organization licensed to conduct gambling shall report on a standard form provided by the Commission, for its last annual fiscal accounting period completed, the information required below: Provided, that if any applicant has provided such information on an application within the preceding twelve months, only those items requiring update must be reported. This report shall include at least the following information:

(a) A brief history of the organization, including its purpose(s); Provided, that only changes in the purposes and organizational structure need to be reported after the initial application;

(b) A written statement setting out the progress made in meeting its organizational purpose(s) during the period;

(c) Number of membership meetings conducted;

(d) Number of active members;

(e) Number of voting members;

(f) The nature, type, or kind of program services provided;

(g) The scope of their program services, including:

(i) Number of persons served by their charitable or nonprofit programs;

(ii) The extent of their service area;

(iii) Number of volunteer workers and estimation of hours worked;

(h) A list of contributions made that includes the following:

(i) The name of each organization and individual receiving a contribution. In the alternative, if a contribution was made to an individual, the term "individual contribution" may be used instead of the individual's name: Provided, the organization maintains necessary records to verify and identify the recipient for each individual contribution listed;

(ii) The amount(s);

(iii) Date(s) made; and

(iv) Whether the contribution was from gambling income or other funds.

(i) Gross income from all non-gambling sources including the source;

(j) Total disbursements to provide charitable services, and total disbursements to provide nonprofit services;

(k) The percentage or extent to which bingo income was used for charitable as distinguished from nonprofit purposes;

(l) Income and expenses for any non-gambling sales activity must be presented separately when it is conducted primarily in conjunction with gambling activities: Provided, that if the gambling activity is not conducted in a rented premise and/or if employees are not used in the gambling activity, then separation is not required;

(m) Details of any loans, contracts, or other business transactions with related parties that accumulatively exceed \$1,000 during the period. "Related parties" is defined as officers, board members, or key employees, including spouses, parents, children, and brothers or sisters of each; and

(n) The names, duties performed, total hours worked, and total compensation paid for the following employees:

(i) All employees paid more than \$30,000 annually;

(ii) Part-time employees paid more than \$15 per hour; and

(iii) All officers receiving compensation for services rendered.

(2) In addition to information required in paragraph (1), Group II and III bingo licensees must submit the following information no later than 120 days following the end of its fiscal year accounting period. The information must be submitted in the form of complete financial statements, including all required footnotes and a "Statement of Cash Flow," and shall be prepared in accordance with generally accepted accounting principles.

(a) A complete balance sheet;

(b) Income and expenses for each gambling activity, separately;

(c) Income from all other sources, separately;

(d) Direct expenses for providing charitable services and direct expenses for providing nonprofit services; and

(e) Capital expenditures made during the period.

(f) Loans to or from officers, members, and employees must be presented separately in the Balance Sheet/Statement of Financial Position or disclosed in the footnotes: Provided, that employee salary advances

of \$200.00 or less will not be considered as loans. Details of all terms, including interest rates and payment schedules must be disclosed;

(g) Income and expenses for each function or activity must be separately presented in the Income Statement/Statement of Operations. Material differences between amounts reported in gambling activity reports and the financial statements must be reconciled and explained: Provided, that a consolidated income statement may be presented, if details of all activities are provided as supplemental information;

(h) All civil penalties, fines, bribes, or embezzlement discovered by the organization are considered material and must be disclosed; and

(i) An explanation of any adjustments made to prior period capital accounts or fund balances must be disclosed in the footnotes or provided as supplemental information.

(3) The Commission may require additional information to ensure completeness of the information reported in subsection (1) or (2) above, including selected information covering the period from the end of the fiscal year reported and the license renewal date;

(4) The Commission may grant additional time to submit the information required by subsection (1) or (2) above upon demonstration of undue hardship and a written request received prior to the due date. Any request for additional time shall be signed by the president and include a statement setting out the hardship necessitating the delay and the expected date the required report(s) will be submitted.

**Reviser's note:** The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION (Amending Order 147, filed 2/22/85)

**WAC 230-08-125 ANNUAL ACTIVITY REPORTS BY OPERATORS OF CLASS A<sub>1</sub>((OR)) B, AND C BINGO, ALL CLASSES O((R))F RAFFLES, AND BONA FIDE CHARITABLE OR NONPROFIT AMUSEMENT GAMES.** Each licensee for the operation of all classes of raffles and bona fide charitable or nonprofit amusement games, and Class A<sub>1</sub> ((or)) B, or C bingo games shall submit to the commission an annual summary of each separate licensed activity on a form supplied by the commission. ((This section shall become effective for license years beginning after March 31, 1983.))

The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than 30 days following the expiration of such organization's license year. The report shall be signed by the highest ranking ((executive)) officer or his/her designee. If the report is prepared by someone other than this officer, then the preparer shall ((also sign)) include his/her name and phone number on the report.

The report shall be completed in accordance with the related instructions furnished with the report. The report shall include, among other items, the following:

(1) The gross gambling receipts from the conduct of each licensed activity;

(2) The total amount of cash prizes actually paid out, and the total of the cost to the licensee of all merchandise prizes actually paid out for each licensed activity;

(3) The net gambling receipts for each activity;

(4) Full details on all expenses directly related to each activity, including all compensation paid by the licensee to each person for any work connected with the management, promotion, conduct or operation of each of the licensed activities, including a description of the work performed by that person. Provided that RCW 9.46.02((0(19)))77 and WAC 230-20-070 are observed in relation to the restriction against employing persons to conduct or otherwise take part in the operation of a raffle((:));

(5) The net income from each activity((:));

(6) The total number of sessions conducted during the year; and

(7) The total number of players participating in bingo games.

#### AMENDATORY SECTION (Amending Order 144, filed 1/9/85)

**WAC 230-12-020 GAMBLING RECEIPTS DEPOSIT REQUIRED BY ALL BONA FIDE CHARITABLE AND NONPROFIT ORGANIZATIONS—EXEMPTIONS.** (1) Every licensed bona fide charitable or nonprofit organization shall keep a separate gambling receipts' account in a recognized Washington state depository authorized to receive funds, which shall be kept separate and apart and actually segregated from the licensee's general funds: Provided, That if such activities are conducted on the United States' portion of the Point Roberts Peninsula, Washington, the deposit may be made in

a British Columbia branch of a Canadian bank. Licensees are not limited to a single gambling receipts account as long as a minimum of one separate account is maintained. The following conditions of deposit will be met:

(a) No expenditures other than for prizes shall be made from the receipts of any licensed gambling activity until such receipts have first been deposited in the gambling receipts account: Provided, That bingo receipts may be withheld from deposits for jar, pig, or other similar special game prizes if:

(i) The total of all such prize funds does not accumulate to exceed \$200.00;

(ii) The amount withheld each session is entered in the bingo daily record; and

(iii) A reconciliation of the special game fund is made of the bingo daily record;

(b) All net gambling receipts from the operation of bingo which are being held pending disbursement shall be deposited in the licensee's gambling receipts account not later than the second banking day following receipt thereof;

(c) All net gambling receipts from the operation of card rooms, punchboards, pull tabs, raffles (Class ((B)) E and above), and amusement games (Class ((B)) D and above) shall be deposited in the licensee's gambling receipts account at least once each week; and

(d) All deposits from bingo net gambling receipts, made to the gambling receipts account, shall be made separately from all other deposits, and the validated deposit receipt shall be kept ((with)) as a part of the daily records as required by WAC 230-08-080.

(2) Bona fide charitable or nonprofit organizations that conduct only one or more of the following activities and do not possess any other licenses issued by the gambling commission are exempt from this rule:

(a) Raffles under the provisions of RCW 9.46.03((0(2)))15;

(b) Bingo, raffles, or amusement games under the provisions of RCW 9.46.03((0(3)))21;

(c) Class A<sub>1</sub> ((or)) B, or C bingo game;

(d) Class A, B, C, or D raffle; or

(e) Class A, B or C amusement game.

(3) Bona fide charitable or nonprofit organizations who conduct only fund raising events or membership raffles and have no other gambling licenses are exempt from having a separate gambling receipts account, but must meet the following conditions of deposit:

(a) No expenditures other than for prizes shall be made until such receipts have first been deposited in the licensee's bank account;

(b) All net gambling receipts shall be deposited within two banking days following receipt thereof; and

(c) The validated deposit receipt shall be kept with the licensee's gambling records.

#### NEW SECTION

**WAC 230-12-060 CHARITABLE OR NONPROFIT – BINGO – SPECIAL REVIEW.** (1) The Director or the Commission may require an organization to appear before the Commission for a Special Review of the organization's performance during the preceding 18 months. Topics for the review shall be limited to the following:

(a) Failure to make progress in meeting its organizational purpose(s);

(b) Payment of excessive wages;

(c) Payment of excessive rent or excessive purchase price for bingo premises;

(d) The loss of exemption from the Internal Revenue Service and its effect on continued eligibility; or

(e) Violation of bingo prize payout or net return requirements.

(2) The Commission will notify all other bingo operations within a five mile radius, of the time, date, and place of the Special Review. The Commission will also notify local law enforcement of this information.

(3) The organization shall be represented by at least a majority of the members of its board of director, its chief executive officer, its primary bingo manager, and may be represented by an attorney.

(4) At the completion of any special review, the Commission may issue a written position regarding the organization reviewed. If the Commission deems that corrective action is necessary, it may require the organization to develop a plan to address the concerns of the Commission. The plan will be reviewed by the staff and the Commission and the organization will be notified of any additional concerns. Any organization subject to corrective action will be allowed a maximum of six (6) months after the review to conform to the approved corrective action plan. The progress made toward compliance will be monitored

by the Commission staff. In the event an organization fails to comply with the corrective action plan, the Director may initiate administrative action concerning any subsequent rule violations. Topics brought before the Commission for a Special Review that constitute rule violations will be treated as a formal warning, and not subject to further administrative action. Provided, if new or continued violations occur after the completion of the Special Review, those violations will be subject to separate administrative action.

#### AMENDATORY SECTION (Amending Order 175, filed 3/15/88)

**WAC 230-20-064 MAXIMUM RECEIPTS, PRIZES, AND EXPENSES FOR BINGO GAMES—NET INCOME REQUIRED.** Bingo is to be conducted as a social pastime and for the raising of funds to support the purpose(s) of the organization only. ((*Bona fide charitable or nonprofit*))) Organizations licensed to operate bingo must comply with the following limitations:

(1) Gross receipts from the sale of bingo cards shall not exceed the limits by class of license for the organization's license year as set out in WAC 230-04-201 and Table 1. below. Any organization not currently licensed to conduct bingo at any class and applying for a Class "((F))D" or above license shall submit with its license application a pro forma plan of operation including a market study with: Planned attendance; prices; prize payout schedules; ((and)) net income predictions; and any other information requested by the commission.

(2) To prevent the payment of prizes in such amounts that would significantly reduce net income, prize payouts, as percentages of gross receipts, shall not exceed the percentages listed in Table 1. by class of license. Any licensee who exceeds the maximum calendar quarter prize payout limit for its class of license by more than two percentage points (2.0%) in ((any month and/or exceeds its calendar quarter limits during)) any quarter must report such to the commission, no later than 15 days following the end of the ((month or)) quarter and provide the commission additional reports as necessary to monitor progress toward compliance.

(3) To insure that licensees meet the intent of RCW 9.46.010 and to prevent the payment of excessive expenses, adjusted net income as a percentage of gross receipts shall not be less than the percentage listed in Table 1. by class of license for any ((calendar year)) annual license period. Any licensee who reports net income more than two percentage points (2.0%) below the minimum ((calendar year)) annual license period requirement for its class during any quarter must report to the commission additional ((information as required)) reports necessary to monitor progress toward compliance: Provided, that bingo games located in jurisdictions which do not authorize punchboards and pull tabs shall be allowed the following expense credit for measuring compliance with this subsection.

- (a) Class D, E, or F – 1.0%
- (b) Class G, H, I, or J – 2.0%
- (c) Class K and above – 3.0%

((4) All administrative procedures, policies, and definitions required to administer this section shall be approved by the commission, and furnished to all affected licensees. Prize payout limits, net income minimum requirements, and administrative procedures will be reviewed annually to measure the effect of this section on the licensed organizations. The annual review shall be held at the March meeting and/or periodically by request of the commission with proper and timely notification to the staff.

((5) During the commission's study on maximum limitations on bingo income, an organization may exceed the Class K gross receipts limitation if the organization has been in compliance for the last 12 months with all Class K requirements set forth in Table 1. This authorization will only be issued to those organizations who voluntarily agree to donate 14% of all gross income generated in excess of \$3,500,000 to a charitable organization of their choice. Provided: The donation may not be given to an auxiliary or to another bingo licensee Class E and above. Provided further: All donations made within the licensed year may be counted as a credit towards the 14% requirement. This section will terminate on December 31, 1988.))

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

#### REPEALER

The following sections of the Washington Administrative Code is hereby repealed:

WAC 230-04-050 QUALIFIED BONA FIDE CHARITABLE & NONPROFIT ORGANIZATION QUALIFICATION  
WAC 230-04-060 REQUIRED INFORMATION  
WAC 230-04-061 REQUIRED INFORMATION, BONA FIDE CHARITABLE & NONPROFIT ORGANIZATIONS

#### **WSR 89-06-001**

#### **ADOPTED RULES BASIC HEALTH PLAN**

[Order 89-001—Filed February 16, 1989]

I, Thomas L. Kobler, director of the Washington Basic Health Plan, do promulgate and adopt at Olympia, Washington, the annexed rules relating to this notice proposes to change chapter 55-01 WAC.

This action is taken pursuant to Notice No. WSR 89-02-029 filed with the code reviser on December 30, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 70.47.050 which directs that the Washington Basic Health Plan has authority to implement the provisions of chapter 70.47 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** February 16, 1989.

By Thomas L. Kobler  
Director

#### AMENDATORY SECTION (Amending Order 88-001, filed 12/2/88)

**WAC 55-01-010 DEFINITIONS.** The following definitions apply throughout these rules.

(1) "Administrator" means the Washington basic health plan administrator.

(2) "Certificate of coverage" means a written document issued by the plan to a subscriber which describes the covered services, premiums, grievance procedures and other rights and responsibilities of enrollees. The certificate of coverage issued to a subscriber shall pertain to the subscriber and family dependents.

(3) "Co-payment" means a payment indicated in the schedule of benefits which is made by an enrollee to a managed health care system or health care provider, or to the plan, when specifically instructed to do so by the plan, for covered services provided to the enrollee.

(4) "Covered services" means those services and benefits to which an enrollee is entitled, under the certificate of coverage issued by the plan to the enrollee (or to a subscriber on behalf of the enrollee), in exchange for payment of premium and applicable copayments.

(5) "Dependent child" means an individual's unmarried natural child, stepchild, or legally adopted child, who is either (a) younger than age nineteen, or (b)

younger than age twenty-three and (i) is a full-time student at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, or (ii) is pursuing a full-time course of institutional on-farm training under the supervision of an educational organization described in WAC 55-01-010 (5)(b)(i).

(6) "Effective date of enrollment" means the first date, as established by the plan, on which an enrollee is entitled to receive covered services from the enrollee's respective participating managed health care system.

((6))) (7) "Enrollee" means a person who meets all eligibility requirements, who is enrolled in the plan, and for whom applicable premium payments have been made.

((7))) (8) "Family" means an individual or an individual and the individual's spouse, if not legally separated, and the individual's dependent children. For purposes of eligibility determination and enrollment in the plan, an individual cannot be a member of more than one family.

((8))) (9) "Family dependent" means a subscriber's legal spouse, if not legally separated, or the subscriber's dependent child, who meets all eligibility requirements, is enrolled in the plan, and for whom the applicable premium has been paid.

((9))) (10) "Grievance procedure" means the formal process for resolution of problems or concerns raised by enrollees which cannot be resolved in an informal manner to the enrollee's satisfaction. "Grievance" means a problem or concern presented for resolution through a grievance procedure.

((10))) (11) "Gross family income" means the total income of all members of an enrollee's family, regardless of whether those family members enroll in the plan. For purposes of this definition, "income" includes but is not limited to wages and salaries, net income from rentals or self-employment, tips, interest income, dividends, royalties, public or private pensions, and Social Security benefits. For purposes of this definition, "income" shall not include income of dependent children, nor shall it include income of a family member who resides in another household when such income is not available to those family members seeking enrollment in the plan.

((11))) (12) "Managed health care system" (or "MHCS") means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, on a prepaid capitated basis to a defined patient population enrolled in the plan and in the managed health care system.

((12))) (13) "Medicare" means programs established by Title XVIII of Public Law 89-97, as amended, "Health Insurance for the Aged and Disabled."

((13))) (14) "Open enrollment" means a time period designated by the administrator during which enrollees

may apply to transfer their membership from one participating managed health care system to another. There shall be at least one open enrollment period of at least twenty consecutive days, at least once annually, in each site served by the plan.

((14))) (15) "Participating," when referring to a managed health care system, means one that has entered into a contract with the plan to provide covered services to enrollees. When referring to a health care provider, "participating" means one who is employed by or has entered into a contract with a participating managed health care system to provide covered services to enrollees.

((15))) (16) "Premium" means a periodic payment, based upon gross family income and determined under RCW 70.47.060(2), which a subscriber makes to the plan on behalf of the subscriber and family dependents in consideration for enrollment in the plan.

((16))) (17) "Provider" or "health care provider" means a health care professional or institution duly licensed and accredited to provide covered services in the State of Washington.

((17))) (18) "Rate" means the per capita amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of enrollees in the plan and in that MHCS.

((18))) (19) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which enrollees shall be entitled to receive from participating managed health care systems.

((19))) (20) "Service area" means the geographic area served by a participating managed health care system as defined in its contract with the plan.

((20))) (21) "Site" means a geographic area designated by the plan in which one or more participating managed health care systems are offered to enrollees for selection.

((21))) (22) "Subscriber" means an enrollee, or the parent or legal guardian of an enrolled dependent child, who has been designated by the plan as the individual to whom the plan and the managed health care system will issue all notices, information requests and premium bills on behalf of all enrolled family members. For purposes of Chapter 55-01 WAC, notice to a subscriber shall be considered notice to all enrolled members of the subscriber's family as well.

((22))) (23) "Subsidy" means the difference between the rate paid by the administrator, from funds appropriated from the basic health plan trust account, to a managed health care system on behalf of an enrollee and the enrollee's premium responsibility.

((23))) (24) "Washington Basic Health Plan" or "plan" means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the plan administrator through participating managed health care systems, created by chapter 70.47 RCW.

AMENDATORY SECTION [(Amending Order 88-001, filed 12/2/88)]

**WAC 55-01-030 PREMIUMS AND COPAYMENTS.** (1) Each subscriber shall be responsible for paying a monthly premium to the plan, on behalf of the subscriber and all family dependents, according to a premium schedule to be provided by the plan at the time the subscriber is enrolled by the plan. The amount of premium payable by any subscriber will be based upon the subscriber's gross family income and rates payable to participating managed health care systems, and may vary with the number and ages of individuals enrolled from a given family. Premium amounts payable shall be a monthly dollar payment or a percentage of the total rate payable by the plan. A description of the premium schedule and an estimate of amounts due will accompany the benefits description and application for enrollment provided to applicants.

(2) Based on the information provided by an enrollee on the application for enrollment, and any other information obtained by the plan, the enrollee will be informed of the premium amount due. The plan will notify subscribers in writing of any revisions to the premium schedule or to the premium amounts payable to the plan, such notice to be mailed at least thirty days prior to the due date of the premium payment for the month in which such revisions are to take effect, except that retroactive enrollment of a newborn or newly adopted child (as provided in WAC 55-01-050(6)) may result in a corresponding retroactive increase in premium payable to the plan. For purposes of this provision, notice shall be deemed complete upon depositing the written revisions in the United States mail, first class postage paid, directed to the enrollee at the enrollee's last mailing address on file with the plan.

(3) Once the plan has determined that a subscriber and members of the subscriber's family (if any) are eligible for enrollment, the plan will bill the subscriber for the family's first month's premium. The subscriber and family members will not be eligible to receive covered services on the effective date of ((coverage)) enrollment specified by the plan ((until)) unless the premium bill is paid in full by the due date specified on the bill. Thereafter, the plan will bill each subscriber monthly, and the subscriber shall be responsible for payment of the billed amount in full by the date specified on the bill.

(4) Premium bills must be paid in full by the date specified on the bill. Payment may be made in person at the plan's administrative office in Olympia, Washington, or by mail to the address specified on the bill. If the plan does not receive payment in full of a premium bill by 5:00 p.m. on the date specified on the bill, the plan shall issue a notice of delinquency to the subscriber, at the subscriber's last address on file with the plan, requiring payment in full by a date not less than ten days from the date of the notice. If full payment is not received by the date specified in the delinquency notice, the subscriber and enrolled family members will be disenrolled effective the first day of the month following the last month for which full premium payment was received by the plan. Partial payment of premiums due will be regarded as

non-payment. The plan may disenroll a subscriber and enrolled family members in the event that the subscriber receives more than two delinquency notices in a twelve-month period.

(5) Enrollees shall be responsible for paying any required copayment directly to the provider of a covered service, unless the enrollee has been instructed by his or her managed health care system or the plan to make payment to another party. Copayments must be paid in full by the enrollee at the time of service. Failure to pay a required copayment in full at the time of service may result in the denial or rescheduling of that service by the managed health care system. Repeated failure to pay copayments in full on a timely basis may result in disenrollment, as provided in WAC 55-01-060(2).

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION [(Amending Order 88-001, filed 12/2/88)]

**WAC 55-01-050 ENROLLMENT IN THE PLAN.** (1) Any individual applying for enrollment in the plan must complete and submit the plan's application for enrollment. Applications for enrollment of children under the age of eighteen must be signed by the child's parent or legal guardian, who shall also be held responsible by the plan for payment of premiums due on behalf of the child.

(2) Each applicant shall complete and sign the application for enrollment, listing family members to be enrolled and supplying such other information as required by the plan. (a) Documentation will be required, showing the amount and sources of applicants' income for the most recent complete calendar month as of the date of application. Applicants will also be required to submit a copy of their most recent federal income tax form. Income documentation shall be required for all income-earning family members, including those not applying for enrollment, except for family members who reside in another household and whose income is not available to the family seeking enrollment, and dependent children. (b) Documentation of residence shall also be required, displaying the applicant's name and address. (c) The plan may request additional information from applicants for purposes of establishing or verifying eligibility, premium responsibility or managed health care system selection. (d) Submission of incomplete or inaccurate information may delay or prevent an applicant's enrollment in the plan. Intentional submission of false information may result in disenrollment of the applicant and all enrolled family members, retroactive to the date upon which coverage began.

(3) Each family applying for enrollment must designate a participating managed health care system from which all enrolled family members will receive covered services. All applicants from the same family must receive covered services from the same managed health care system. No applicant will be enrolled for whom designation of a participating managed health care system has not been made as part of the application for enrollment. The administrator will establish procedures for

the selection of managed health care systems, which will include conditions under which an enrollee may change from one managed health care system to another. Such procedures will allow enrollees to change from one managed health care system to another during open enrollment, or otherwise upon showing of good cause for the transfer.

(4) Except as provided in WAC 55-01-040(2), applications for enrollment will be reviewed by the plan within thirty days of receipt and those applicants satisfying the eligibility criteria and who have provided all required information, documentation and premium payments will be notified of ((the date upon which they may begin receiving covered services from the plan)) their effective date of enrollment.

(5) Eligible applicants will be enrolled in the plan in the order in which their completed applications, including all required documentation, have been received by the plan, provided that the applicant ((has)) also ((remit)) remits full payment of the first premium bill to the plan by the due date specified by the plan.

(6) Not all family members are required to apply for enrollment in the plan; however, any family member for whom application for enrollment is not made at the same time that other family members apply may not subsequently enroll as a family dependent until the next open enrollment period available to that family member. Eligible newborn and newly adopted children may be enrolled effective from the date of birth or physical placement with the adoptive parents for adoption, provided that application for enrollment is submitted to the plan within ((thirty)) sixty days of the date of birth or such placement for adoption. A newly acquired spouse of an enrollee may apply for enrollment within thirty days of the date of marriage and, if found eligible by the plan, will be enrolled on the first of a month following completion of the enrollment process by the plan, provided that the addition of the spouse does not otherwise render the family ineligible for coverage by the plan.

(7) Any enrollee who disenrolls from the plan for reasons other than (a) ineligibility due to an increase in gross family income or (b) coverage by another health care benefits program may not re-enroll in the plan for a period of twelve months from the effective date of disenrollment. An enrollee who disenrolls because of ineligibility due to an increase in gross family income may re-enroll in the event that gross family income subsequently falls to a level which qualifies the enrollee for eligibility. An enrollee who disenrolls because of coverage by another health care benefits program may re-enroll in the event that the enrollee becomes ineligible for such other coverage, provided that the enrollee has been continuously covered since the date of disenrollment from the plan, and provides documentation of such continuous coverage to the plan. Before any person shall be re-enrolled in the plan, that person must complete a new application for enrollment and must be determined by the plan to be otherwise eligible for enrollment as of the date of application.

(8) Once once every six months, the plan will request verification of information from enrollees ("recertification"), which may include a request to complete a new

application form and submit required documentation. At recertification, enrollees will be required to report their monthly gross family income for the preceding six months, and to provide the same documentation of such income as required of applicants. The plan may request information more frequently from an enrollee for the purpose of verifying eligibility if the plan has good cause to believe that the enrollee's income, residence, family size or other eligibility criteria may have changed since the date on which information was last received by the plan. Enrollees shall be given at least twenty days from the date of any such information request to respond to the request. Failure to ((comply)) respond within the time designated in any information request shall result in a second request from the plan. Failure to respond within the time designated in any second request for information may result in disenrollment of the enrollee. Each enrollee is responsible for notifying the plan within thirty days of any changes which could affect the enrollee's eligibility or premium responsibility.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION [(Amending Order 88-001, filed 12/2/88)]

**WAC 55-01-060 DISENROLLMENT FROM THE PLAN.** (1) An enrollee may disenroll effective the first day of any month by giving the plan at least ten days prior written notice of the intention to disenroll. Re-enrollment in the plan shall be subject to the provisions of WAC 55-01-050(7). The administrator shall also establish procedures for notice by an enrollee of a disenrollment decision, including the date upon which disenrollment shall become effective. Nonpayment of premium by an enrollee shall be considered an indication of the enrollee's intention to disenroll from the plan.

(2) ((Bases for disenrollment of an enrollee by the plan may include, but shall not be limited to, the following:)) The plan may disenroll any enrollee from the plan for good cause, which shall include: failure to meet the eligibility requirements set forth in WAC 55-01-040; loss of eligibility; nonpayment of premium; repeated failure to pay copayments in full on a timely basis; fraud or abuse (including but not limited to serious misconduct); intentional misconduct; and refusal to accept or follow procedures or treatment determined by a participating provider to be essential to the health of the enrollee, where the managed health care system demonstrates to the satisfaction of the ((administrator)) plan that no professionally acceptable alternative ((exists)) form of treatment is available from the managed health care system, and the enrollee has been so advised by the managed health care system. The plan shall provide the enrollee with advance written notice of its intent to

disenroll the enrollee. Such notice shall specify an effective date of disenrollment, which shall be at least ten days from the date of the notice, and shall describe the procedures for disenrollment, including the enrollee's right to appeal the disenrollment decision as set forth in WAC 55-01-070. Prior to the effective date specified, if the enrollee submits a grievance to the plan contesting the disenrollment decision, as provided in WAC 55-01-070(3), disenrollment shall not become effective until the date, if any, established as a result of the plan's grievance procedure, provided that the enrollee otherwise remains eligible and continues to make all premium payments when due; and further provided that the enrollee does not pose a threat of nonconsensual violent, aggressive or sexually aggressive behavior, assault or battery or purposeful damage to or theft of managed health care system property, or the property of staff or providers, patients or visitors while on the property of the managed health care system or one of its participating providers.

(3) Any applicant for enrollment in the plan who knowingly provides false information to the plan or to a participating managed health care system may be disenrolled by the plan and may be held financially responsible for any covered services obtained from the plan. The administrator may apply other available remedies as well.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 89-06-002  
ADOPTED RULES  
DEPARTMENT OF WILDLIFE  
(Wildlife Commission)**  
[Order 380—Filed February 16, 1989]

Be it resolved by the State Wildlife Commission, acting at the Tyee Hotel, 500 Tyee Drive, Olympia, WA 98502, that it does adopt the annexed rules relating to:

New WAC 232-28-712 1989 Spring turkey seasons and information on spring bear hot spot hunts.  
Rep WAC 232-28-710 1988 Spring turkey seasons and information on spring bear hot spot hunts.

This action is taken pursuant to Notice No. WSR 88-24-061 filed with the code reviser on December 7, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** January 13, 1989.  
By Dr. James M. Walton  
Chairman, Wildlife Commission

**NEW SECTION**

**WAC 232-28-712 1989 SPRING TURKEY SEASONS AND INFORMATION ON SPRING BEAR HOT SPOT HUNTS.**

**Reviser's note:** The text and accompanying pamphlet comprising the 1989 Spring turkey seasons and information on spring bear hot spot hunts adopted by the Department of Wildlife have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Wildlife, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

**REPEALER**

The following section of the Washington Administrative Code is hereby repealed:

**WAC 232-28-710 1988 SPRING TURKEY SEASONS AND INFORMATION ON SPRING BEAR HOT SPOT HUNTS**

**WSR 89-06-003  
ADOPTED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Health)**

[Order 2764—Filed February 16, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 248-15-040 Physician's trained mobile IV therapy technician—Training and knowledge standards.  
Amd WAC 248-15-050 Physician's trained mobile airway management technician—Training and knowledge standards.

This action is taken pursuant to Notice No. WSR 89-01-089 filed with the code reviser on December 21, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 18.71.205.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** February 16, 1989.

By Leslie F. James, Director  
Administrative Services

**AMENDATORY SECTION** (Amending Order 1329, filed 8/22/78)

**WAC 248-15-040 PHYSICIAN'S TRAINED MOBILE IV THERAPY TECHNICIAN—TRAINING AND KNOWLEDGE STANDARDS.** (1) Shock and fluid therapy

- (a) Fluid and electrolytes:
- (i) Demonstrate a knowledge of:
    - (A) Intracellular fluid
    - (B) Extracellular fluid
    - (C) Intravascular fluid
    - (D) Extravascular fluid
    - (E) Interstitial fluid
    - (F) Total body fluid;
  - (ii) Demonstrate a knowledge of:
    - (A) Isotonic solution
    - (B) Hypertonic solution
    - (C) Hypotonic solution;
  - (iii) Given a list of IV solutions, demonstrate a knowledge of the osmotic effect of the solution when introduced into the body;
  - (iv) Demonstrate a working knowledge of acid base balance in the human body and acid base equilibrium;
  - (v) Identify those fluids normally carried in the field that are used to increase the circulating blood volume;
  - (vi) Demonstrate a working knowledge of the components of D5W, D5-normal saline, lactated Ringers solution and bicarbonate ( $\text{NaHCO}_3$ ).
- (b) Blood and its components:
- (i) Demonstrate a knowledge of blood and its components. Describe the function of:
    - (A) Plasma
    - (B) Red cells
    - (C) White blood cells
    - (D) Platelets;
  - (ii) Show an understanding of the common terms related to blood:
    - (A) Hematocrit
    - (B) Hemoglobin
    - (C) Anemia
    - (D) Hemostasis
    - (E) Transfusion reaction;
  - (iii) Demonstrate a knowledge of blood typing and be able to define:
    - (A) A universal donor
    - (B) A universal blood recipient
    - (C) A transfusion reaction.
- (c) Techniques of management:
- (i) Identify the criteria for intravenous infusion;
  - (ii) Identify all items which might normally be carried in a paramedic unit or paramedic kit, which relate to IV infusion;
  - (iii) Identify at least two components for each of the IV solutions carried in a paramedic's apparatus or that a paramedic is trained to administer. This will include a minimum of three solutions;
  - (iv) Demonstrate a knowledge of measuring volume of content in IV solution in milliliters and liters;
  - (v) Compare standard and pediatric IV administration sets with respect to drops per minute and explain the effect of the viscosity of the solution upon that rate;
  - (vi) Demonstrate a knowledge of the various intravenous needles and their parts including:
    - (A) Winged needle devices (butterfly)
    - (B) Catheter over the needle device (ABBACATH or angiocath)
    - (C) Catheter through the needle device (INTRACATH);
- (vii) Compare the over-the-needle device with an intracatheter and be able to note the limitations and dangers of each;
- (viii) Identify the appropriate sites for venipuncture on the body;
- (ix) Demonstrate a knowledge of the anatomy of superficial veins of the upper and lower extremities;
- (x) Demonstrate in written examination, the sequence required to start an IV;
- [(xi)]
- (xii) Demonstrate a knowledge of those situations that depict an air embolism in a patient, the effect of the embolism and the techniques for preventing embolisms;
- (xiii) Be able to describe the effect of IV fluid temperature upon the vessels when entering a body;
- (xiv) Be familiar with all of the common definitions and terms associated with shock and fluid therapy.
- (2) Testing will occur periodically throughout the course. Each student shall demonstrate knowledge objectives on a written examination approved by the department or the University of Washington's school of medicine. In addition, each student will be required to demonstrate proficiency by a practical examination. On completion of the course, the student will be able to display knowledge of the topics on written examination. Successful performance will be defined as correctly responding to eighty percent of the items appearing on the examination. The student will not be permitted to use any materials or notes during the examination. For those standards involving recognition, the student will be required to recognize the specific term, definition or procedural step(s) from a group of terms, definitions or procedural steps presented to him. Recall involves the student expressing the term, definition or procedural step(s) either orally or in writing, without the presence of any cues.
- (3) The skills standards required of physician's trained mobile intravenous therapy technicians shall consist of the following minimum requirements or equivalent.
- (4) Fluid and IV therapy—skill standard
- (a) Given the following equipment:
    - (i) 18# winged needle device;
    - (ii) Administration set;
    - (iii) IV fluid;
    - (iv) Iodine or alcohol wipes;
    - (v) Tourniquet;
    - (vi) Sterile dressing;
    - (vii) Padded armboard; and
    - (viii) Adhesive tape.
- Demonstrate on a fellow student or patient the procedure for initiating an IV using a winged needle device. The infusion will be considered successful if it is running at a flow rate within three drops per minute of the stipulated flow rate and infiltration is not present.
- (b) Given the following equipment:
- (i) 18# over-the-needle catheter device;
  - (ii) Administration set;
  - (iii) IV fluid;
  - (iv) Iodine or alcohol wipes;
  - (v) Tourniquet;
  - (vi) Sterile dressing;
  - (vii) Padded armboard; and

## (viii) Adhesive tape.

Demonstrate on a practice arm, a fellow student or patient, the procedure for initiating an IV using an over-the-needle catheter device. The infusion will be considered successful if it is running at a flow rate within three drops per minute of the stipulated flow rate and infiltration is not present.

## (c) (Optional) Given the following equipment:

- (i) 18# through-the-needle catheter device;
- (ii) Administration set;
- (iii) IV fluid;
- (iv) Iodine wipes;
- (v) Tourniquet;
- (vi) Sterile dressing;
- (vii) Padded armboard; and
- (viii) Adhesive tape.

Demonstrate on a practice arm, the procedure for initiating an IV using a through-the-needle catheter device. The infusion will be considered successful if it is running at a rate within three drops per minute of the stipulated flow rate and infiltration is not present.

(d) Given a properly functioning infusion on a practice arm, fellow student or patient during a practical exercise, demonstrate the technique of stopping an infusion and caring for the injection site.

(e) Given a minimum of three situations presented by the instructor during a practical exercise in which the IV infusion is not running on a practice arm, identify the problem and correct it. The problems may include the following:

- (i) Flow clamp closed;
- (ii) Height of IV too low;
- (iii) Needle not patent;
- (iv) Tubing kinked or pinched;
- (v) Air vent not patent;
- (vi) Tourniquet still in place;

(vii) Identify the problems and correct them. Each situation may involve more than one, but not more than two problems.

(f) Given a properly functioning infusion on a practice arm during practical exercise, demonstrate the technique for removal of an air bubble from the administration set. The demonstration will be considered successful if the bubble is entirely removed in two consecutive attempts.

(g) Given an over-the-needle device properly initiated in a practice arm, a 25cc syringe and three rubber-topped sample collecting tubes, demonstrate the procedure for collecting blood samples.

(h) Given a 500 ml. bottle of IV fluid, a 500 ml. or 1000 ml. flexible bag of IV fluid and administration set, demonstrate how to properly set up an intravenous set using aseptic techniques.

(5) After attending the lecture and demonstrations and given an opportunity to practice the involved skills, the students will be able to correctly perform each of the skill standards in the presence of the instructor and without the use of notes, diagrams or charts. Correct performance will be defined by the instructor during the lecture and demonstration sessions. The student will be given no more than three attempts to successfully perform each of the required steps in the proper sequence.

(6) To maintain a qualification in this skill during the first two years following certification, the certified individual ((provider must)) shall perform a minimum of ((five)) thirty-six catheter-around-needle insertions on sick, injured, or postoperative patients ((in a month, averaged)) over a ((ninety-day)) twelve-month period((; during the first year following certification)). In ((the second and)) subsequent ((years following)) certification periods certified, the ((performance frequency)) individual shall ((be at least three insertions per month)) demonstrate proficiency to the satisfaction of the EMS medical program director as required under WAC 248-15-025 (2)(e). In addition, the certified individual ((provider)) shall maintain a minimum of fifteen hours of approved continuing medical education each year.

(7) Standards for IV therapy technician correspond to Module I, II, and III, department of transportation curriculum reference.

**AMENDATORY SECTION** (Amending Order 1718, filed 11/12/81)

**WAC 248-15-050 PHYSICIAN'S TRAINED MOBILE AIRWAY MANAGEMENT TECHNICIAN—TRAINING AND KNOWLEDGE STANDARDS.** (1) Meet requirements of WAC 248-15-030.

## (2) Respiratory system:

(a) Anatomy and physiology of the respiratory system:

(i) Demonstrate a knowledge of all the components and functions of the anatomy of the upper respiratory tract;

(ii) Demonstrate a knowledge of all the components and functions of the anatomy of the lower respiratory tract;

(iii) Demonstrate a knowledge of the role of the muscles that are primarily involved in respiration;

(iv) Describe at least five causes of change in respiratory rate;

(v) Outline and describe the nervous system as it relates to the respiratory center and to respiratory function;

(vi) Demonstrate a knowledge of normal and abnormal blood gas values and their effect on blood pH and respiratory activity.

(b) Pathophysiology and management of respiratory problems:

(i) Identify those medical problems which may cause acute respiratory insufficiency;

(ii) Demonstrate a knowledge of those trauma related problems that may cause acute respiratory insufficiency;

(iii) Demonstrate a knowledge of the procedures required to give appropriate treatment in the management of the respiratory arrest patient;

(iv) Given a list of causes of upper airway obstruction, describe those causes which are most common and describe the techniques required to relieve airway obstruction;

(v) Demonstrate an understanding of the general characteristics, causes and treatment for the following respiratory problems:

(A) Asthma

(B) Chronic lung disease

- (C) Emphysema
- (D) Chronic obstructive pulmonary disease (COPD)
- (E) Respiratory burns
- (F) Inhaled toxic gases
- (G) Drowning;
- (vi) Demonstrate a knowledge of the following clinical presentations:

- (A) Rhonchi
- (B) Rales
- (C) Pulmonary edema
- (D) Upper respiratory edema
- (E) Absence of gag reflex;

(vii) Identify and appropriately treat the drowning victim and the near-drowning victim in both fresh and salt water, describe the physiological differences based on the type of water composition. List the differences in the treatment of the respective patients;

(viii) Demonstrate a working knowledge of IPPB;

(ix) Demonstrate an ability to properly treat the patient with pulmonary edema;

(x) Demonstrate a knowledge and familiarization of the various normal and abnormal breath sounds heard upon auscultation;

(xi) Demonstrate a knowledge of hypoventilation and its causes, clinical manifestations and treatment;

(xii) Demonstrate a knowledge of respiratory problems resulting from fractured ribs;

(xiii) Demonstrate knowledge of the definitions, symptoms and treatment procedures used in the management of:

- (A) Flail chest
- (B) Simple pneumothorax
- (C) Tension pneumothorax
- (D) Sucking chest wound
- (E) Hemothorax.

(c) Techniques of management:

(i) Demonstrate a knowledge of oxygen delivery, oxygen adjuncts and oxygen delivery methods and the advantages and disadvantages of each delivery method;

(ii) Identify the potential complications in the administration of oxygen and of oxygen's toxic effects;

(iii) Demonstrate a thorough knowledge of laryngoscopy and endotracheal intubation;

(iv) Demonstrate a knowledge of esophageal obturation airway methods;

(v) Demonstrate an understanding of the purpose, indications and methods of thoracic decompression;

(vi) Identify the indications, equipment (including cricothyrotomes) and methods of performing cricothyroidotomy.

(3) Testing will occur periodically throughout the course. Each student shall demonstrate knowledge objectives on a written examination approved by the department or the University of Washington's school of medicine. In addition, each student will be required to demonstrate proficiency by a practical examination. On completion of the course, the student will be able to display knowledge of the topics on written examination. Successful performance will be defined as correctly responding to eighty percent of the items appearing on the examination. The student will not be permitted to use any materials or notes during the examination. For those

standards involving recognition, the student will be required to recognize the specific term, definition or procedural step(s) from a group of terms, definitions or procedural step(s) presented to him. Recall involves the student expressing the term, definition or procedural step(s) either orally or in writing, without the presence of any cues.

(4) The skills standards required of physician's trained mobile airway management technicians shall consist of the following minimum requirements or equivalent.

(5) Aids to ventilation:

(a) Endotracheal intubation:

(i) Given an adult and/or an infant intubation manikin, laryngoscope, assorted curved and straight blades, endotracheal tube, lubrication jelly, syringe, hemostat, bag-valve unit, bite block and tape, demonstrate the technique for the insertion of an endotracheal tube within thirty seconds. Thirty seconds is the maximum allowable interruption in the ventilation cycle. During testing, only two attempts to pass the tube will be allowed;

(ii) Given an anesthetized patient in a clinical or operating room setting or a human cadaver and laryngoscope, assorted curved and straight blades, endotracheal tube, lubrication jelly, syringe, hemostat, bag-valve unit, appropriate forceps, bite block and tape, demonstrate the technique for the insertion of an endotracheal tube within thirty seconds consistently. Thirty seconds is the maximum allowable interruption in the ventilation cycle. During testing, only two attempts to pass the tube will be allowed;

(iii) Given an adult intubation manikin, laryngoscope, assorted curved and straight blades, and appropriate forceps, the student will be able to demonstrate the technique of direct laryngoscopy for removal of a foreign body;

(iv) Given a suction device, sterile catheters, a container of water, sterile gloves and a patient or manikin with endotracheal tube in place, the student will be able to demonstrate aseptic atraumatic orotracheal and endotracheal suctioning technique;

(v) To maintain a qualification in this skill during the first two years following certification, the certified individual ((provider must)) shall perform a minimum of ((one)) twelve endotracheal ((intubation per month, averaged)) intubations over a ((ninety-day)) twelve-month period((;)) on human subjects. In subsequent certification periods, the certified individual shall perform a minimum of four endotracheal intubations in a twelve-month period. In addition, the certified individual ((provider)) shall maintain a minimum of fifteen hours of approved continuing medical education each year. ((Subjects may be anesthetized patients, patients seen in actual emergencies or human cadavers\*.)

(b) (Optional) Esophageal obturation:

(i) Given an adult intubation manikin, an esophageal obturator airway, 30cc syringe, and bag-valve unit, demonstrate the technique for the insertion of an esophageal obturator airway;

(ii) Demonstrate the method to assess correct placement of the obturator and properly obtain a mask seal and ventilate the patient;

(iii) Demonstrate endotracheal intubation with the esophageal obturator in place and subsequent removal of the obturator;

(iv) To maintain a qualification in this skill, users of the esophageal obturator airway must have a refresher training under the direct supervision of a physician every ninety days. Refresher training shall be accomplished on an intubation manikin or human cadaver. The advanced life support system which prefers to follow the optional training program and use the esophageal obturator in the field must also train the student in the use of endotracheal intubation. Skill maintenance standards may be maintained in either endotracheal intubation or the obturator airway.

(c) Other adjuncts to airway management:

(i) Given a fellow student as a patient, demonstrate the procedure for the preparation of the oxygen system and the administration of oxygen to a breathing patient using:

- (A) Nasal cannula
- (B) Partial rebreather mask
- (C) Venturi mask
- (D) (Optional) Demand valve unit;

(ii) Given an adult manikin, oro and nasopharyngeal airways, pocket mask, oxygen cylinder and bag-valve mask, demonstrate the procedure for administering intermittent positive ventilation using:

- (A) Pocket mask
- (B) Bag-valve mask
- (C) Bag-valve mask with oxygen
- (D) Oropharyngeal airway with bag-valve mask;

(iii) Given a bag-valve mask, demonstrate the assembly, disassembly and cleaning of the bag-valve mask unit;

(iv) Given a prepared animal or cadaver, a twelve or fourteen gauge venous catheterization set or an approved style one-way valve, demonstrate the technique for chest decompression;

(v) (Optional) Given an adult manikin, an oropharyngeal airway and a demand valve unit, demonstrate the procedure for performing intermittent positive pressure ventilation;

(vi) (Optional) Given a demand valve unit, demonstrate the assembly, disassembly and cleaning of the demand valve unit;

(vii) (Optional) Given an animal or cadaver with an obstructed upper airway, and a cricothyrotome or cricothyroidotomy set with scalpel, the student will demonstrate the procedure for performing a cricothyroidotomy.

(6) Standards for physician trained mobile airway management technicians compare to Module I, II and IV, department of transportation curriculum reference.

(\*Human cadavers may be used not to exceed one per ninety days.)

#### WSR 89-06-004

##### EMERGENCY RULES

##### DEPARTMENT OF NATURAL RESOURCES

[Order 559—Filed February 17, 1989]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to lifting of outdoor burning restrictions in Whatcom County.

I, Brian J. Boyle, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is recent rain and snow, and predicted continued wet weather, allow the lifting of burning restrictions in Whatcom County.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 76.04.015 and 76.04.315 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 17, 1989.

By Brian J. Boyle  
Commissioner of Public Lands

#### REPEALER

*The following sections of the Washington Administrative Code are repealed:*

#### WAC 332-26-095 OUTDOOR BURNING RESTRICTIONS

#### WSR 89-06-005

##### EMERGENCY RULES

##### DEPARTMENT OF REVENUE

[Order 89-2—Filed February 17, 1989]

I, Garry G. Fujita, assistant director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to hazardous substance tax, amending WAC 458-20-252.

I, Garry G. Fujita, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is a public hearing was conducted on January 24, 1989, where a full opportunity to present views on the proposed action was had. However, because of additions or deletions to this rule resulting from that public hearing, there is inadequate remaining time to get this rule adopted and effective by March 1, 1989, the effective date of Initiative 97 which the rule is amended

to implement. Emergency adoption of the rule solves this time problem and is necessary for the general welfare of the taxpaying public.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 82.32.300.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 17, 1989.

By Garry G. Fujita  
Assistant Director

**AMENDATORY SECTION** (Amending Order 88-2, filed 2/26/88)

**WAC 458-20-252 HAZARDOUS SUBSTANCE TAX.** (1) *Introduction.* Under the provisions of chapter 82.22 RCW a hazardous substance tax ((is)) was imposed, effective January 1, 1988, upon the wholesale value of certain substances and products, with specific credits and exemptions provided. This law is significantly changed, effective on March 1, 1989, because of Initiative 97 (I-97) which was passed by the voters in the November 8, 1988 general election. ((This)) The tax, which is reimposed by I-97, is an excise tax upon the privilege of possessing hazardous substances or products in this state. It is imposed in addition to all other taxes of an excise or property tax nature and is not in lieu of any other such taxes.

(a) ((RCW 82.22.020)) I-97, which will be referred to as chapter 2, Laws of 1989, defines certain specific substances as being hazardous and includes other substances by reference to Federal legislation governing such things. It also provides authority to the director of the State Department of Ecology to designate any substances or products as hazardous which could present a threat to human health or the environment. The Department of Ecology, by duly published rule, defines and enumerates hazardous substances and products and otherwise administers the provisions of the law relating to hazardous and toxic or dangerous materials, waste, disposal, cleanup, remedial actions, and monitoring. (See chapter 173-((340)) of the Washington Administrative Code.)

(b) ((Chapter 82.22 RCW)) Sections 8 through 12 of I-97 consist((s)) of the tax provisions relating to hazardous substances and products which are administered exclusively under this section. The tax provisions relate exclusively to the possession of hazardous substances and products. The tax provisions do not relate to waste, releases or spills of any materials, cleanup, compensation, or liability for such things, nor does tax liability under the law depend upon such factors. The incidence or privilege which incurs tax liability is simply the possession of the hazardous substance or product, whether or not such possession actually causes any hazardous or dangerous circumstance.

(c) The hazardous substance tax is imposed upon any possession of a hazardous substance or product in this state by any person who is not expressly exempt of the tax. However, it is the intent of the law that the economic burden of the tax should fall upon the first such possession in this state. Therefor, the law provides that if the tax has not been paid upon any hazardous substance or product the department may collect the tax from any person who has had possession. The amount of tax paid then constitutes a debt owed by the first person having had taxable possession to the person who pays the tax. ((The provisions of parts (10) and (11) of this section reduce the tax payment obligations of successive possessors of hazardous substances and products to the greatest extent allowable under the law.))

(2) Definitions. For purposes of this section the following terms will apply.

(a) "Tax" means the hazardous substance tax imposed ((by RCW 82.22.030)) under Section 10 of I-97.

(b) "Hazardous substance" means anything designated as such by the provisions of ((WA)) chapter 173-((340)) WAC, administered by the State Department of Ecology, as adopted and thereafter amended. In addition, the law defines this term to include:

(i) Any substance that, on ((January 1, 1988)) March 1, 1989, is a hazardous substance under section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by Public Law 99-499. These substances consist of chemicals and elements in their purest form. ((Products containing CERCLA chemicals and/or elements as ingredients)) A CERCLA substance which contains water is still considered pure. Combinations of CERCLA substances as ingredients together with non-hazardous substances will not be taxable unless the end product is specifically designated as a hazardous substance((s)) by the Department of Ecology.

(ii) petroleum products (further defined below);

(iii) pesticide products required to be registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); and

(iv) anything else enumerated as a hazardous substance in Chapter 173-((340)) WAC by the Department of Ecology.

((v) Until April 1, 1988, "hazardous substance" does not include substances or products packaged as a household product and distributed for domestic use.))

(c) "Product(s)" means any item(s) containing a combination of ingredients, some of which are hazardous substances and some of which are not hazardous substances.

(d) "Petroleum product" means any plant condensate, lubricating oil, crankcase motor oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual fuel, asphalt base, liquefied or liquefiable gases, such as butane, ethane and propane, and every other product derived from the refining of crude oil, but the term does not include crude oil.

(i) The term "derived from the refining of crude oil" as used herein, means produced because of and during petroleum processing. "Petroleum processing" includes

all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to crude oil or any byproduct of crude oil so that as a result thereof a fuel or lubricant is produced for sale or commercial or industrial use. "Fuel" includes all combustible gases and liquids suitable for the generation of energy. The term "derived from the refining of crude oil" does not mean petroleum products which are manufactured from refined oil derivatives, such as petroleum jellies, cleaning solvents, asphalt paving, etc. Such further manufactured products become hazardous substances only when expressly so designated by the Director of Ecology.

(e) "Possession" means control of a hazardous substance located within this state and includes both actual and constructive possession.

(i) "Control" means the power to sell or use a hazardous substance or to authorize the sale or use by another.

(ii) "Actual possession" occurs when the person with control has physical possession.

(iii) "Constructive possession" occurs when the person with control does not have physical possession.

(f) "Previously taxed hazardous substance" means a hazardous substance upon which the tax has been paid and which has not been remanufactured or reprocessed in any manner.

(i) Remanufacturing or reprocessing does not include the mere repackaging or recycling for beneficial reuse. Rather, these terms embrace activities of a commercial or industrial nature involving the application of skill or labor by hand or machinery so that as a result, a new or different substance or product is produced.

(ii) "Recycling for beneficial reuse" means the recapturing of any used substance or product, for the sole purpose of extending the useful life of the original substance or product in its previously taxed form, without adding any new, different, or additional ingredient or component.

(iii) Example: Used motor oil drained from a crank-case, filtered, and containerized for reuse is not remanufactured or reprocessed. If the tax was paid on possession of the oil before use, the used oil is a previously taxed substance.

(iv) Possessions of used hazardous substances by persons who merely operate recycling centers or collection stations and who do not reprocess or remanufacture the used substances are not taxable possessions.

(g) "Wholesale value" is the tax measure or base. It means((::)) the fair market value determined by the wholesale selling price.

((i)) the price paid by a wholesaler or retailer to a manufacturer, or

((ii)) the price paid by a retailer to a wholesaler when the price represents the value at the time of first possession in this state.

((iii))) In cases where no sale has occurred, wholesale value means the fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar substances of like quality and character. In such cases the wholesale value

shall be the "value of the products" as determined under the alternate methods set forth in WAC 458-20-112.

((iv)) It is the intent of the law that the "wholesale value," which is the tax measure, should be as uniform and constant as possible throughout the chain of distribution from manufacture to retail sale. For special tax reporting formulas for retailers, see Part (11) of this section.)

(h) "Selling price" means consideration of any kind expressed in terms of money paid or delivered by a buyer to a seller, without any deductions for any costs whatsoever. Bona fide discounts actually granted to a buyer result in reductions in the selling price rather than deductions.

(i) "State," for purposes of the credit provisions of the hazardous substance tax, means:

(i) the state of Washington,

(ii) states of the United States or any political subdivisions of such other states,

(iii) the District of Columbia,

(iv) territories and possessions of the United States,

(v) any foreign country or political subdivision thereof.

(j) "Person" means any natural or artificial person, including a business organization of any kind, and has the further meaning defined in RCW 82.04.030.

(i) The term "natural person," for purposes of the tax exemption provided by ((RCW 82.22.040(2))) Section 11(2) of I-97 regarding substances used for personal or domestic purposes, means human beings in a private, as opposed to a business sense.

(k) Except as otherwise expressly defined in this section, the definitions of terms provided in chapters 82.04, 82.08, and 82.12 RCW apply equally for this section. Other terms not expressly defined in these chapters or this section are to be given their common and ordinary meanings.

(3) Tax rate and measure. The tax is imposed upon the privilege of possessing hazardous substances in this state. The tax rate is ((eight)) seven tenths of one percent ((.008)) (.007). The tax measure or base is the wholesale value of the substance, as defined herein.

(4) Exemptions. The following are expressly exempt from the tax:

(a) Any successive possessions of any previously taxed hazardous substances are tax exempt.

(i) Any person who possesses a hazardous substance which has been acquired from any other person who is registered with the department of revenue and doing business in this state may take a written statement certifying that the tax has been previously paid. Such certifications must be taken in good faith and must be in the form provided in the last part of this section. Blanket certifications may be taken, as appropriate, which must be renewed at intervals not to exceed four years. These certifications may be used for any single hazardous substance or any broad classification of hazardous substances, e.g., "all chemicals."

(ii) In the absence of taking such certifications, the person who possesses any hazardous substance must ((prove)) retain proofs that it purchased or otherwise

acquired the substance from a previous possessor in this state ((and that the tax has been paid)).

It is not necessary for subsequent possessors to obtain certificates of previously taxed hazardous substances in order to perfect their tax exemption. Documentation which establishes any evidence of previous tax payment by another person will suffice. This includes invoices or billings from in state suppliers which reflect their payment of the tax or simple bills of lading or delivery documents revealing an in state source of the hazardous substances.

(iii) This exemption for taxes previously paid is available for any person in successive possession of a taxed hazardous substance even though the previous payment may have been satisfied by the use of credits or offsets available to the previous person in possession.

(iv) Example. Company A brings a substance into this state upon which it has paid a similar hazardous substance tax in another state. Company A takes a credit against its Washington tax liability in the amount of the other state's tax paid. It then sells the substance to Company B, and provides Company B with a Certificate of Previously Taxed Substance. Company B's possession is tax exempt even though Company A has not directly paid Washington's tax but has used a credit against its Washington liability.

(b) Any possession of a hazardous substance by a natural person for use of a personal or domestic nature rather than a business nature is tax exempt.

(i) This exemption extends to relatives, as well as other natural persons who reside with the person possessing the substance, and also to regular employees of that person who use the substance for the benefit of that person.

(ii) This exemption does not extend to possessions by any independent contractors hired by natural persons, which contractors themselves provide the hazardous substance.

(iii) Examples: Possessions of spray materials by an employee-gardener or soaps and cleaning solvents by an employee-domestic servant, when such substances are provided by the natural person for whose domestic benefit such things are used, are tax exempt. Also, possessions of fuel by private persons for use in privately owned vehicles are tax exempt.

(c) ((Any possessions of the following substances are tax exempt:

(i) alumina, natural gas, or petroleum coke;

(ii) liquid fuel or fuel gas used in processing petroleum;

(iii) petroleum products that are exported for use or sale outside this state as fuel.

(iv) The exemption for possessions of petroleum products for export sale or use as fuel may be taken by any person within the chain of distribution of such products in this state. To perfect its entitlement to this exemption the person possessing such substance(s) must take from its buyer or transferee of the substance(s) a written certification in substantially the following form:

#### Certificate of Tax Exempt Export Petroleum Products

I hereby certify that the petroleum products specified herein, purchased by or transferred to the undersigned, from (seller or transferor), are for export for use or sale outside Washington state as fuel. I will become liable for and pay any hazardous substance tax due upon all or any part of such products which are not so exported outside Washington state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No. \_\_\_\_\_ Type of Business \_\_\_\_\_  
(If applicable)

Firm Name \_\_\_\_\_ Registered Name \_\_\_\_\_  
(If different)

Authorized Signature \_\_\_\_\_

Title \_\_\_\_\_

Identity of Petroleum Product \_\_\_\_\_  
(Kind and amount by volume)

Date \_\_\_\_\_

(v) Each successive possessor of such petroleum products must, in turn, take a certification in this form from any other person to whom such petroleum products are sold or transferred in this state. Failure to take and keep such certifications as part of its permanent records will incur hazardous substance tax liability by such sellers or transferors of petroleum products.

(vi) Persons in possession of such petroleum products who themselves export or cause the exportation of such products to persons outside this state for further sale or use as fuel must keep the proofs of actual exportation required by WAC 458-20-193, Parts A or C. Example: Carriers who will purchase fuel in this state to be taken out of state in the fuel tanks of any ship, airplane, truck, or other carrier vehicle will provide their fuel suppliers with this certification. Then such carriers will directly report and pay the tax only upon the portion of such fuel actually consumed by them in this state. (With respect to fuel brought into this state in fuel tanks and partially consumed here, see the credit provisions of Part (5)(b) of this section:))

Any possession of any hazardous substance, other than pesticides or petroleum products, possessed by a retailer for making sales to consumers, in an amount which is determined to be "minimal" by the department of ecology. That department has determined that the term "minimal" means less than \$1,000.00 worth of such hazardous substances measured by their wholesale value, possessed during any calendar month.

(d) Possessions of alumina or natural gas are tax exempt.

(e) Persons or activities which the state is prohibited from taxing under the United States Constitution are tax exempt.

(i) This exemption extends to the U.S. Government, its agencies and instrumentalities, and to any possession the taxation of which has been expressly reserved or preempted under the laws of the United States.

(ii) The tax will not apply with respect to any possession of any hazardous substance purchased, extracted, produced or manufactured outside this state which is

shipped or delivered into this state until the interstate transportation of such substance has finally ended in this state. Thus, out of state sellers or producers need not pay the tax on substances shipped directly to customers in this state. The customers must pay the tax upon their first possession unless otherwise expressly exempt.

(iii) Out of state sellers or producers will be subject to tax upon substances shipped or delivered to warehouses or other in state facilities owned, leased, or otherwise controlled by them.

(iv) However, the tax will not apply with respect to possessions of substances which are only temporarily stored or possessed in this state in connection with through, interstate movement of the substances from points of origin to points of destination both of which are outside of this state.

((e)) Any possession of any hazardous substances which were already possessed before January 1, 1988 are tax exempt. This exemption extends to current inventories and stocks of hazardous substances on hand on January 1, 1988 when the tax first takes effect. The intent is that the hazardous substance tax has no retroactive application.

(i) It is the intent, under the law, that this exemption will apply to the substances throughout their succeeding chain of distribution, in the possession of any person, for the life of those substances. That is, hazardous substances already possessed as of December 31, 1987 will not incur tax liability in the possession of any person at any time.

(ii) Persons who already possess any hazardous substances on December 31, 1987 must use a first-in-first-out (FIFO) accounting method for depleting such supplies, supported by their purchase, sales, or transfer records.

(iii) Because this exemption will follow the hazardous substances into the possession of any subsequent or succeeding possessors, sellers of such exempt current inventory substances should provide their registered buyers in this state with the Certificate of Previously Taxed Hazardous Substance set forth in Part (15) of this section.)

(f) The former exemption for petroleum products for export sale or use outside this state as fuel was effectively repealed by I-97. There are no exemptions under the law for any possessions of hazardous substances in this state simply because such substances may later be sold or used outside this state.

(g) Though I-97 contains an exemption for persons possessing any hazardous substance where such possession first occurred before March 1, 1989, this exemption applies only to the tax imposed under I-97. It does not apply retroactively to excuse the hazardous substance tax which was imposed under chapter 82.22 RCW in effect from January 1, 1988 until March 1, 1989. However:

(i) TRANSITIONAL RULE: Persons who possess stocks or inventories of petroleum products as of March 1, 1989, which are destined for sale or use outside this state as fuel are not subject to tax upon such possessions of pre-existing inventories. For periods before March 1, 1989 the former exemption of RCW 82.22.040(3) for export petroleum products applies. For periods on and after

March 1, 1989 the exemption for prepossessed hazardous substances explained in subsection (g) above will apply. Records appropriate to establish that such petroleum products were destined for out of state sale or use as fuel must be retained by any possessor claiming exemption under this transitional rule.

(5) Credits. There are three distinct kinds of tax credits against liability which are available under the law.

(a) A credit may be taken by any manufacturer or processor of a hazardous substance produced from ingredients or components which are themselves hazardous substances, and upon which the hazardous substance tax has been paid by the same person or is due for payment by the same person.

(i) Example. A manufacturer possesses hazardous chemicals which it combines to produce an acid which is also designated as a hazardous substance or product. When it reports the tax upon the wholesale value of the acid it may use a credit to offset the tax by the amount of tax it has already paid or reported upon the hazardous chemical ingredients or components. In this manner the intent of the law to tax hazardous substances only once is fulfilled.

(ii) Under circumstances where the hazardous ingredient and the hazardous end product are both possessed by the same person during the same tax reporting period, the tax on the respective substances must be computed and the former must be offset against the latter so that the tax return reflects the tax liability after the credit adjustment.

(iii) This credit may be taken only by manufacturers who have the first possession in this state of both the hazardous ingredients and the hazardous end product.

(b) A credit may be taken in the amount of the hazardous substance tax ((paid)) upon the value of fuel which is carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle.

(i) ((The purpose of this credit is to extend the same tax exclusion which exists for exported fuel (part (4)(c) above) to fuel which is possessed and partly used in this state before crossing the boundaries of this state in any fuel tank attached to any transportation vehicle powered by such fuel.

((ii))) The credit may be claimed only for the amount of tax reported or actually due to be paid on the fuel, not the amount representing the value of the fuel.

((iii))) (ii) The purpose of this credit is to exclude from taxation any possessions of fuel which remains in the fuel tanks of any carrier vehicles powered by such fuel when they leave this state, regardless of where or from whom such fuel-in-tanks was acquired.

((ii)) The nature of this credit is such that it generally has application only for interstate and foreign private or common carriers ((whose fuel tanks contain fuel which was not first possessed by some other person in this state who paid the tax. The credit is limited to the person who carries the fuel from this state and cannot be claimed by any person who previously possessed the fuel in this state and paid the tax.)) who carry fuel into this state and/or purchase fuel in this state. The intent is that the tax will

apply only to so much of such fuel as is actually consumed by such carriers within this state.

((iv)) Interstate/foreign carriers who purchase fuel in this state do not require, and may not use this credit in respect to such locally purchased fuel. Instead, the export fuel exemption set forth at part (4)(c)(iii) will be used. Thus, this fuel-in-tanks credit is applicable only for fuel brought into this state in fuel tanks, part of which is then taken out of this state in the fuel tanks. The intent is that the tax will apply only to so much of such fuel as is consumed by such carriers in this state.

(v) Example. An airline company enters this state with its fuel tanks partially full of fuel which has not been possessed and taxed earlier in this state. The fuel in the tanks is, therefore, first possessed in this state by the airline company, has not been previously taxed, and the possession is not expressly tax exempt. Only the amount of fuel actually used in this state is subject to the tax because this credit may be taken for the tax paid on the portion of fuel allocated to use after the airplane exits this state.))

(iv) In order to equitably and efficiently administer this tax credit, any fuel which is brought into this state in carrier vehicle fuel tanks must be accounted for separately from fuel which is purchased in this state for use in such fuel tanks. Formulas approved by the department for reporting the amount of fuel consumed in this state for purposes of this tax or other excise tax purposes will satisfy the separate accounting required under this subsection.

(v) Fuel-in-tanks brought into this state must be fully reported for tax and then the credit must be taken in the amount of such fuel which is taken back out of this state. This is to be done on the same periodic excise tax return so that the net effect is that the tax is actually paid only upon the portion of fuel consumed here.

(vi) The credit for fuel-in-tanks purchased in this state must be accounted for by using a fuel-in-tanks credit certificate in substantially the following form:

**CERTIFICATE OF CREDIT FOR FUEL CARRIED**  
**FROM THIS STATE IN FUEL TANKS**

I hereby certify that the petroleum products specified herein, purchased by or transferred to the undersigned, from (name of seller or transferor), are entitled to the credit for fuel which is carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle operated by a private or common carrier in interstate or foreign commerce. I will become liable for and pay the hazardous substance tax due upon all or any part of such fuel which is not so carried from this state. This certification is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

*Registration No.*

(if applicable)

Type of Business

Firm Name

**Business Address**

Registered Name

(if different)

### **Tax Reporting Agent**

(if applicable)

*Authorized Signature*

— 1 —

Title \_\_\_\_\_  
Identity of Fuel \_\_\_\_\_  
(kind and amount by volume) \_\_\_\_\_  
Date: \_\_\_\_\_

(vii) This certificate may be executed and provided to any possessor of fuel in this state, throughout the chain of distribution, with respect to fuel which ultimately will be sold and delivered into any carrier's fuel tanks in this state. Thus, refiners or manufacturers will take such certificates directly from carriers or from their wholesale purchasers who will sell to such carriers. Similarly, fuel dealers and distributors will take such certificates from carriers to whom they sell such fuel. These certificates must be retained as a permanent part of such seller's business records.

(viii) Persons who execute and provide these credit certificates to their fuel suppliers must retain suitable purchase and sales records as may be necessary to determine the amount of tax for which such persons may be liable.

(ix) Blanket certificates may be used to cover recurrent purchases of fuel by the same purchaser. Such blanket certificates must be renewed every two years.

(c) A credit may be taken against the tax owed in this state in the amount of any other state's hazardous substance tax which has been paid by the same person measured by the wholesale value of the same hazardous substance.

(i) In order for this credit to apply, the other state's tax must be significantly similar to Washington's tax in all its various respects. The taxable incident must be possessing the substance; the tax purpose must be that the substance is hazardous; and the tax measure must be stated in terms of the wholesale value of the substance, without deductions for costs of doing business, such that the other state's tax does not constitute an income tax or added value tax.

(ii) This credit may be taken for the amount of any other state's qualifying tax which has actually been paid ((either)) before ((or after)) Washington State's tax is ((paid)) incurred because the substance was previously possessed by the same person in another taxing jurisdiction.

(iii) The amount of credit is limited to the amount of tax paid in this state upon possession of the same hazardous substance in this state. Also, the credit may not be applied against any tax paid or owed in this state other than the hazardous substance tax imposed by ((RCW 82.22.030)) Section 10 of I-97.

(iv) Exchange agreements under which hazardous substances or products possessed in this state are exchanged through any accounts crediting system with like substances possessed in other states do not qualify for this credit. The substance taxed in another state, and for which this credit is sought, must be actually, physically possessed in this state.

(v) Persons claiming this credit must maintain records necessary to verify that the credit taking qualifications have been met. See WAC 458-20-19301, part (9) for record keeping requirements. The department of revenue will publish an Excise Tax Bulletin listing other states' taxes which qualify for this credit.

(6) Newly defined hazardous substances. The Director of Ecology may identify and designate things as being hazardous substances after ((January 1, 1988)) March 1, 1989. Also, things designated as hazardous substances may be deleted from this definition. Such actions are done by the adoption and subsequent periodic amendments to rules of the Department of Ecology under the Washington Administrative Code.

(a) The law allows the addition or deletion of substances as hazardous by rule amendments, no more often than twice in any calendar year.

(b) When such definitions are changed, they do not take effect for tax purposes until the first day of the following month which is at least thirty days after the effective date of rule action by the Department of Ecology.

(i) Example. The Department of Ecology adopts or amends the rule by adding a new substance and the effective date of the amendment is ((January)) June 15. Possession of the substance does not become taxable until ((March)) August 1.

(ii) ((The exemption for current inventories and stocks on hand explained at part (5)(c) of this section does not apply to possessions of hazardous substances newly added by rule.)) The tax is owed by any person who has possession of the newly designated hazardous substance upon the tax effective date as explained herein. It is immaterial that the person in possession on that date was not the first person in possession of the substance in this state before it was designated as hazardous.

(7) Recurrent tax liability. It is the intent of the law that all hazardous substances possessed in this state should incur this tax liability only once unless they are expressly exempt. This is true of hazardous ingredients of products as well as the manufactured end product itself, if designated as a hazardous substance. The exemption for previously taxed hazardous substances does not apply to "products" which have been manufactured or remanufactured simply because an ingredient or ingredients of that product may have already been taxed when possessed by the manufacturer. Instead of an exemption, manufacturers in possession of both the hazardous ingredient(s) and end product(s) should use the credit provision explained at Part (5)(a) of this section.

(a) However, the term "product" is defined to mean only an item or items which contain a combination of both hazardous substance(s) and non-hazardous substance(s). The term does not include combinations of only hazardous substances. Thus, possessions of substances produced by combining other hazardous substances upon all of which the tax has previously been paid will not again be taxable.

(b) When any hazardous substance(s) is first produced during and because of any physical combination or chemical reaction which occurs in a manufacturing or processing activity, the intermediate possession of such substance(s) within the manufacturing or processing plant is not considered a taxable possession if the substance(s) becomes a component or ingredient of the product being manufactured or processed or is otherwise

consumed during the manufacturing or processing activity.

(i) However, when any intermediate hazardous substance is first produced during a manufacturing or processing activity and is withdrawn for sale or transfer outside of the manufacturing or processing plant, a taxable first possession occurs.

(c) Concentrations or dilutions for shipment or storage. The mere addition or withdrawal of water or other nonhazardous substances to or from hazardous substances designated under CERCLA or FIFRA for the sole purpose of transportation, storage, or the later manufacturing use of such substances does not result in any new hazardous product.

(8) How and when to pay tax. The tax must be reported on a special line of the combined excise tax return designated "hazardous substances." It is due for payment together with the timely filing of the return upon which it is reported, covering the tax reporting period during which the hazardous substance(s) is first possessed within this state. Any person who is not expressly exempt of the tax and who possesses any hazardous substance in this state, without having proof that the tax has previously been paid on that substance, must report and pay the tax.

(a) It may be that the person who purchases a hazardous substance will not have billing information from which to determine the wholesale value of the substance when the tax return for the period of possession is due. In such cases the tax is due for payment no later than the next regular reporting due date following the reporting period in which the substance(s) is first possessed.

(b) The taxable incident or event is the possession of the substance. Tax is due for payment by the purchaser of any hazardous substance whether or not the purchase price has been paid in part or in full.

(c) Special provision for manufacturers, refiners, and processors. ((Because it is not possible to know, at the time of first possession in this state, whether a hazardous substance may be used or sold in a manner which would entitle the first possession to tax exemption, m)) Manufacturers, refiners, and processors who possess hazardous substances are required to report the tax and take any available exemptions and credits only at the time that such hazardous substances are withdrawn from storage for purposes of their sale, transfer, remanufacture, or consumption.

(9) How and when to claim credits. Credits should be claimed and offset against tax liability reported on the same excise tax return when possible. The tax return form provides a line for reporting tax on hazardous substances and a line for taking credits as an offset against the tax reported. It is not required that any documents or other evidences of entitlement to credits be submitted with the report. Such proofs must be retained in permanent records for the purpose of verification of credits taken.

(10) ((Successive possessions of the same hazardous substance. The law provides that the department of revenue may collect the tax from any person who has had possession of a hazardous substance in this state, if the tax has not already been paid by any person. The law

~~also provides that the tax measure, wholesale value, should be as uniform as possible throughout the chain of possession. Wholesale value is determined by the wholesale selling price.~~

~~(a) When tax is collected by the department from any person having successive possession of a substance, because no tax was previously paid on that same substance, the wholesale selling price means the price paid to any manufacturer or wholesaler who first had possession in this state.~~

~~(b) In determining this wholesale selling price, the charges for shipping, delivery, warehousing, or any other such charges representing cost increments accrued after the first wholesale sale in this state are not included. Thus, the tax collected from any person having successive possession should be no greater than what the tax would have been if collected from the person who had first possession of the substance in this state.~~

~~(11) Formulary or percentage tax reporting. The law provides that when the burden of the tax falls upon retailers, when they are the first persons in possession in this state, the tax burden should be equal to the same burden when it falls upon manufacturers or first level wholesalers earlier in the distribution chain. Because the tax measure is the wholesale value of the substance when first possessed in this state, that measure should remain constant regardless of who is the first person in possession. This is true even when the first person in possession is a retailer or any other purchaser or transferee of a hazardous substance from any out-of-state seller or transferor other than the out-of-state manufacturer of the substance.~~

~~(a) It may be that the retailer or other importer first in possession will not have access to records reflecting the manufacturer's wholesale value of a hazardous substance. RCW 82.22.030 provides that in such cases the tax may be imposed upon a "percentage of sales" for any class of retailer so as to equalize the tax burden for all persons in possession of hazardous substances. Therefor, in order to derive a tax measure which will reasonably approximate the manufacturer's wholesale selling price, retailers or other importers who are the first persons in possession of hazardous substances in this state may report and pay the tax under one of the following methods:~~

~~(i) measured by manufacturer's wholesale value as shown upon any actual accounting records available; or,~~

~~(ii) measured by sixty percent (60%) of gross receipts from retail sales of hazardous substances which have not been previously taxed; or,~~

~~(iii) measured by the possessor's cost, less twenty percent (20%), of all such substances not previously taxed; or,~~

~~(iv) under circumstances where none of the above methods fairly reflects what the wholesale value would have been at the time and place of first possession by a manufacturer in this state, then the retailer may submit a percentage of sales formula for prior approval by the department of revenue.~~

~~(v) It is not the intent of these formulary tax measurement provisions to derive any tax measure below or less than the manufacturer's wholesale value.~~

~~(b)) Special provision for consumer/first possessors. Under circumstances where the consumer is the first person in possession of any non-exempt hazardous substance (e.g., substances imported by the consumer), or where the consumer is the person who must pay the tax upon substances previously possessed in this state (fuel purchased for export in fuel tanks) the consumer's tax measure will be ((sixty percent (60%))) eighty percent (80%) of its retail purchase price. This provision((; again,)) is intended to ((equalize the)) achieve a tax measure ((for all taxable persons possessing hazardous substances)) equivalent to the wholesale value.~~

~~((12)) (11) Hazardous substances or products on consignment. Consignees who possess hazardous substances or products in this state with the power to sell such things, in their own name or on behalf of a disclosed or undisclosed consignor are liable for payment of the tax. The exemption for previously taxed substances is available for such consignees only if the consignors have paid the tax and the consignee has retained the certification or other proof of previous tax payment referred to in part (4)(i) and (ii) of this section. Possession of consigned hazardous substances by a consignee does not constitute constructive possession by the consignor.~~

~~((13)) (12) Hazardous substances untraceable to source. Various circumstances may arise whereby a person will possess hazardous substances in this state, some of which have been previously taxed in this or other states and some of which may not. In such cases ((the)) formulary tax reporting ((of part (11) of this section)) may be used, ((including the)) only upon a ((request for a)) special ruling by the department of revenue.~~

~~(a) Example. Fungible petroleum products from sources both within and outside this state are commingled in common storage facilities. Formulary reporting is appropriate based upon volume percentages reflecting the ratio of in-state production to out-of-state production or other form of acquisition.~~

~~((14)) (13) Administrative provisions. The provisions of chapter 82.32 RCW regarding due dates, reporting periods, tax return requirements, interest and penalties, tax audits and limitations, disputes and appeals, and all such general administrative provisions apply equally to the hazardous substance tax. Special requested rulings covering unique circumstances generally will be issued within sixty days from the date upon which complete information is provided to the department of revenue.~~

~~((15)) (14) Certification of previously taxed hazardous substance. Certification that the hazardous substance tax has already been paid by a person previously in possession of the substance(s) may be taken in substantially the following form:~~

*I hereby certify that this purchase – all purchases of \_\_\_\_\_  
(omit one)*  
*by \_\_\_\_\_, by \_\_\_\_\_,  
(identify substance(s) purchased) (name of purchaser),  
who possesses registration no. \_\_\_\_\_, (buyer's number, if registered)*

*consists of the purchase of hazardous substance(s) or product(s) upon which the ((tax imposed by RCW 82-22.030)) hazardous substance tax has been paid in full by a person previously in possession of the substance(s) or product(s) in this state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion, and with the full knowledge and agreement that the undersigned hereby assumes any liability for hazardous substance tax which has not been previously paid because of possession of the hazardous substance(s) or product(s) identified herein.*

*The registered seller named below personally paid the tax upon possession of the hazardous substances.*

*A person in possession of the hazardous substances prior to the possession of the registered seller named below paid the tax.*

*((This certificate is being used to cover tax exempt existing inventories which were possessed in this state on December 31, 1987.))*

*(Check the appropriate line.)*

Name of registered seller \_\_\_\_\_ Registration No. \_\_\_\_\_

Firm name \_\_\_\_\_ Address \_\_\_\_\_

Type of business \_\_\_\_\_

Authorized signature \_\_\_\_\_ Title \_\_\_\_\_

Date \_\_\_\_\_

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

**WSR 89-06-006  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE**  
[Filed February 17, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules relating to the use of pesticides for ground-water protection in chapter 16-228 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 3, 1989.

The authority under which these rules are proposed is chapters 17.21 and 15.58 RCW.

This notice is connected to and continues the matter in Notice No. WSR 89-01-110 filed with the code reviser's office on December 21, 1988.

Dated: February 17, 1989  
By: Art Losey  
Assistant Director

**WSR 89-06-007  
ADOPTED RULES  
DEPARTMENT OF AGRICULTURE**  
[Order 1994—Filed February 17, 1989]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to importation of poultry and hatching eggs, chapter 16-59 WAC.

This action is taken pursuant to Notice No. WSR 89-01-084 filed with the code reviser on December 21, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 16.36.040 and 16.36.050 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 17, 1989.

By Michael V. Schwisow  
Deputy Director

**Chapter 16-59 WAC  
((POULTRY AND HATCHING EGGS—IMPORTATION AND INTERSTATE MOVEMENT)) IMPORTATION OF POULTRY AND HATCHING EGGS**

**AMENDATORY SECTION** (Amending Order 997, Regulations 3, 4, 5, filed 1/21/66)

**WAC 16-59-030 TESTING OF BREEDING STOCK.** (1) Pullorum-typhoid: All hatching eggs, baby chicks and/or pouls, and growing stock ((and adult stock in intrastate or)) (started pullets) in interstate movement shall have originated from parent or grandparent stock which ((have been found free from pullorum-typhoid by the application of blood agglutination tests performed within twelve months (18 months if hatching eggs) immediately prior to the breeding season during which the eggs or poultry being moved were produced or all birds in the shipment be found free under same approved methods within thirty days of movement. Such blood agglutination tests are to be conducted under supervision of national poultry or turkey improvement plans or other personnel, agencies or laboratories authorized to perform such testing by the animal health control agency of the state of origin. Tube agglutination test of serum, rapid test of serum or whole blood test are acceptable when applied in accordance with the requirements of this regulation. In all tests conducted the reactors must be serially numbered by leg or wing bands or otherwise positively identified before being removed from the flock. Any person who sells poultry or poultry products as)) are/were registered as participating flocks under the National Poultry Improvement Plan (NPIP) or equivalent state program and classified as Salmonella pullorum-typhoid free. Acceptable tests are serum tube agglutination, serum or whole blood plate agglutination with pullorum antigen or Enzyme Linked Immuno-Sorbent Assay (ELISA). Any person who sells poultry or hatching eggs as Salmonella pullorum-typhoid free must qualify such under the provisions of this order: PROVIDED, HOWEVER, That eggs for table consumption and stock for immediate slaughter, or shipments consigned to a diagnostic laboratory or research institute approved by Washington state department of

agriculture, shall be exempt from pullorum-typhoid requirements contained in this order.

(2) Infectious laryngotracheitis; infectious coryza: No poultry shall be transported, shipped or otherwise introduced into the state that have been naturally infected((; vaccinated)) with or exposed to poultry ((vaccinated with, a live or attenuated infectious laryngotracheitis and/or coryza vaccine or exposed to poultry that are or have been infected with infectious)) naturally infected with field strains of infectious laryngotracheitis or infectious coryza or vaccinated with virulent laryngotracheitis or infectious coryza vaccines, except upon a permit from the director of agriculture and subject to ((thirty day)) quarantine at destination. Such permits will be granted only when available authentic information indicates that the poultry to be transported will not present a disease hazard to state of Washington flocks: PROVIDED, HOWEVER, That eggs for table consumption from flocks naturally infected with field strains of infectious laryngotracheitis or infectious coryza or vaccinated with virulent laryngotracheitis or infectious coryza vaccines, when washed and sanitized by methods required by the state veterinarian after consultation with Washington state poultry pathologists, stock for immediate slaughter or stock consigned to a diagnostic or research laboratory approved by Washington state department of agriculture shall be exempt from the infectious laryngotracheitis; infectious coryza requirements contained in this order: PROVIDED FURTHER, That crates ((or)), equipment, and packaging material used for such transportation are cleaned and sterilized to the satisfaction of Washington state department of agriculture authorities or burned before leaving the slaughter ((or)), diagnostic, or egg processing premises.

(3) Ornithosis: Poultry and eggs from flocks in ((areas where)) which ornithosis has been diagnosed shall not be imported into or moved intrastate in the state of Washington except on written permit from the Washington state department of agriculture.

**WSR 89-06-008**  
**NOTICE OF PUBLIC MEETINGS**  
**SEATTLE COMMUNITY COLLEGES**  
 [Memorandum—February 13, 1989]

The board of trustees of Seattle Community College District has scheduled three special executive sessions, to meet Thursday, February 23, 1989, from 9:00 a.m. to 6:00 p.m.; Friday, February 24, from 9:00 a.m. to 6:00 p.m.; and Monday, February 27, from 9:00 a.m. to 6:00 p.m., in the Arthur Siegal Education and Service Center, 1500 Harvard, Seattle, WA 98122.

**WSR 89-06-009****PROPOSED RULES****DEPARTMENT OF PERSONNEL****(Personnel Board)**

[Filed February 21, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning schedule change and compensation, amending WAC 356-15-090;

that the agency will at 10:00 a.m., Thursday, April 13, 1989, in the Board Hearings Room, Department of Personnel, 521 South Capitol Way, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 11, 1989.

Dated: February 17, 1989

By: Robert Boysen  
 Acting Director

**STATEMENT OF PURPOSE**

Title: Amending WAC 356-15-090 Schedule change and compensation.

Purpose: Establishes the minimum notice for schedule change for "scheduled work period" employees, and penalty payment for falling short of the notice period. Paragraph (5) authorizes "contingency scheduling for certain types of emergency duty." Provided employees are notified that they are subject to contingency scheduling thirty days in advance, they can be rescheduled with only the first shift on the new schedule being subject to overtime.

Statutory Authority: RCW 41.06.150(9).

Summary: This proposal would enlarge the list of employees eligible for contingency scheduling to include the Department of Corrections employees responsible for the supervision of inmates assigned to forest fire suppression operations.

Reasons: Department of Corrections would like to be able to reschedule their employees for fire camp duty with the same options as those provided in this section for Department of Natural Resources.

Responsibility for Drafting: Gail Salisbury, Department of Personnel, 521 South Capitol Way, FE-11, Olympia, WA 98504, phone (206) 753-5383; Implementation and Enforcement: Department of Personnel.

Agency or Organization Submitting Proposal: Department of Corrections, governmental agency.

Comments or Recommendations: Recommend adoption.

Rule Proposal a Result of Federal Law, or Federal or State Court Action: No.

**AMENDATORY SECTION** (Amending Order 285, filed 11/24/87, effective 1/1/88)

**WAC 356-15-090 SCHEDULE CHANGE AND COMPENSATION.** (1) The appointing authority shall schedule the working days and hours of scheduled work period employees. This schedule shall remain in effect for at least seven calendar days, and may be changed only with seven or more calendar days notice. If seven calendar days notice is not given, a new schedule does not exist until the notice period expires. Agencies may notify employees of more than one future schedule change in a single notice.

The seven calendar days notice of changes in working days and/or hours must be given to the affected employees during their scheduled working hours. The day that notification is given shall constitute a day of notice.

(2) If the appointing authority changes the assigned hours or days of scheduled work period employees without giving them at least seven days notice of the change, employees will be paid for all time worked outside the scheduled hours or days at the overtime rate for the duration of the notice period.

(a) When changes in employees' assigned hours or days are made without proper notice, employees may work their scheduled hours or days unless the appointing authority deems that:

(i) The employees are unable to perform satisfactorily as the result of excessive overtime hours; or

(ii) The work which normally would have been performed within the scheduled hours or days cannot be performed.

(b) The state is not obligated to pay for those scheduled hours or days not worked, unless the employee is on an authorized leave of absence with pay.

(c) Overtime pay and shift or schedule change pay shall not be paid for the same incident.

(3) Regardless of whether advance notice is given, an agency is not obligated to pay overtime due to a change in work schedule, when such a change is in response to a request from an employee, provided the employee works no more than forty hours in a workweek.

When the majority of employees in a work unit ask, in writing, for such a change, and the work unit can function properly only if all employees in the unit work the proposed schedule or scheduling plan, the agency is authorized to approve the change for the entire unit as an employee-initiated change. A written request for a schedule change from the exclusive representative shall constitute a request of employees within a certified bargaining unit.

(4) When an agency initiates a scheduled change from one scheduled standard work schedule to another scheduled standard work schedule, there is created a seven-day transition period.

(a) The transition period starts at the beginning of the shift of the previous schedule which would have begun a new five-consecutive-day work cycle.

(Example: An eight-to-five Tuesday through Saturday employee changes to a Sunday-Thursday schedule beginning on Sunday. The transition period starts at eight a.m. on the last Tuesday of the old schedule, and runs until eight a.m. on the first Tuesday under the new schedule.)

(b) If, during the transition period, the employee must work more than five of the seven workdays, then the work in excess of forty non-overtime hours will be paid at overtime rates.

(c) If, during the transition period, the schedule change causes an employee to begin work on an earlier day of the workweek or at an earlier hour of the workday than was required under the old schedule, the employee will be paid at the overtime rate for the first hours worked in the new schedule which precede the next hours which the employee would have worked under the old schedule.

(5) Contingency scheduling is allowed for employees in scheduled work period positions having the following responsibilities: Highway snow, ice and avalanche control, grain inspection, horticulture inspection, ((and)) in the department of natural resources, forest fire suppression, "hoot owl," forest fuels management and aerial applications and in the department of corrections employees responsible for the supervision of inmates assigned to forest fire suppression operations.

Therefore, for employees in scheduled work period positions, the appointing authority shall not be bound by the above scheduled shift change notice requirement, if the appointing authority notifies affected employees of the contingency schedule in writing when they enter the position or not less than 30 days prior to implementation.

When conditions mandate the activating of the contingency schedule, the appointing authority shall pay affected employees the overtime rate for all hours worked outside the original schedule at least for the employee's first shift of the contingency schedule and for other overtime hours covered by subsection (6) of this section.

(6) When a scheduled or nonscheduled work period employee experiences a schedule change (within or between agencies) which causes an overlap in workweeks and requires work in excess of forty hours in either the old or the new workweek, the employee must receive overtime compensation at least equal to the amount resulting from the following calculations:

(a)(i) Starting at the beginning of the "old" workweek, count all hours actually worked before the end of that workweek, and calculate the straight-time pay and the overtime pay (based on "regular rate" as defined in WAC 356-05-353).

(ii) Starting at the conclusion of the "new" workweek, count back to include all hours actually worked since the beginning of that workweek, and calculate the straight time and overtime (based on "regular rate" as defined in WAC 356-05-353).

(iii) Pay the larger amount calculated under (a)(i) and (ii) of this subsection.

(b) If any other combination of straight-time and time-and-one-half-rate pay required by these rules results in an amount of pay, for either workweek, which is greater than the amount calculated in (a)(iii) of this subsection, then only the larger amount should be paid.

(7) If overtime is incurred as a result of employee movement between state agencies, the overtime will be borne by the receiving agency.

**WSR 89-06-010****EMERGENCY RULES****DEPARTMENT OF CORRECTIONS**

[Order 89-02—Filed February 21, 1989]

I, Chase Riveland, director of [the Department of Corrections], do promulgate and adopt at Olympia, Washington, the annexed rules relating to regional jail camp, adopting chapter 137-25 WAC, establishment of a regional jail camp.

I, Chase Riveland, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is adoption of rules is necessary to allow the Department of Corrections to receive county inmates at the McNeil Island Corrections Center Annex. This action will help counties reduce overcrowding in the jails. This is an interim measure while formal adoption procedures are proceeding.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 72.64.100 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 21, 1989.

By Chase Riveland  
Secretary

**Chapter 137-25 WAC  
REGIONAL JAIL CAMP**

**WAC**

- |            |   |
|------------|---|
| 137-25-010 | <i>Establishment of regional jail camp.</i> |
| 137-25-020 | <i>Eligibility for transfer.</i>            |
| 137-25-030 | <i>Rules and regulations.</i>               |
| 137-25-040 | <i>Waiver.</i>                              |

**NEW SECTION**

**WAC 137-25-010 ESTABLISHMENT OF REGIONAL JAIL CAMP.** (1) The secretary hereby declares the McNeil Island Corrections Center Annex to be a regional jail camp, as provided by RCW 72.64.100.

(2) All transfers of county offenders to the regional jail camp shall be made pursuant to a contract between the county and the department, in accordance with RCW 72.64.110.

(3) The department shall not accept direct commitments to its regional jail camp from the courts.

**NEW SECTION**

**WAC 137-25-020 ELIGIBILITY FOR TRANSFER.** (1) Offenders referred for transfer by the county to a regional jail camp shall meet the following criteria:

- (a) Sentenced felons only;
- (b) Three months or longer to serve on jail term;
- (c) No major management/disciplinary problems;
- (d) Able-bodied, no medical or mental health problems necessitating care beyond that which can be provided at the annex;
- (e) No contagious diseases; and
- (f) No high escape risks.

(2) The county shall be responsible to screen the offenders it refers to ensure that these criteria are met.

**NEW SECTION**

**WAC 137-25-030 RULES AND REGULATIONS.** All rules, regulations, and departmental and institutional policies which govern the confinement, care, treatment, and employment of offenders shall apply to county offenders transferred to a regional jail camp.

**NEW SECTION**

**WAC 137-25-040 WAIVER.** The secretary may waive any provisions of this chapter if he or she deems such waiver to be in the best interests of the department.

**WSR 89-06-011  
ADOPTED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Institutions)**  
[Order 2765—Filed February 22, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to alcohol and drug treatment facilities, amending chapter 275-19 WAC.

This action is taken pursuant to Notice No. WSR 88-23-041 filed with the code reviser on November 9, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 69.54.040 and 70.96A.090 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** February 21, 1989.

By Leslie F. James, Director  
Administrative Services

**Reviser's note:** The material contained in this filing will appear in the 89-07 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

**WSR 89-06-012****ADOPTED RULES****SKAGIT VALLEY COLLEGE**

[Order 89-01—Filed February 22, 1989]

Be it resolved by the board of trustees of Community College District No. 4, Skagit Valley College, acting at Mount Vernon, Washington, that it does adopt the annexed rules relating to policy on the use of college facilities, chapter 132D-140 WAC.

This action is taken pursuant to Notice Nos. WSR 88-19-090 and 88-24-013 filed with the code reviser on [September 20, 1988], and December 1, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated under the general rule-making authority of the board of trustees of Community College District No. 4 as authorized in RCW 28B.50.140.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** February 14, 1989.

By Arlene M. Miller  
Chair

**Chapter 132D-140 WAC**  
**Policy on the Use of College Facilities**

**NEW SECTION**

**WAC 132D-140-010 USE OF COLLEGE FACILITIES.** Community College District No. 4 serves Skagit, Island and San Juan Counties by providing continued educational opportunity for its citizens. In keeping with this general purpose, the college believes that facilities should be available for a variety of uses which are of benefit to the general public; provided, that such

general uses do not interfere with the educational mission of the college. However, a state agency is under no obligation to make its public facilities available to the community for private purposes.

#### NEW SECTION

**WAC 132D-140-020 LIMITATION OF USE TO SCHOOL ACTIVITIES.** When allocating use of college facilities, top priority shall always be given to activities specifically related to the college's mission. No arrangements shall be made that may interfere with or operate to the detriment of, the college's own teaching, research, or public service programs. In particular, the college buildings, properties, and facilities, including those assigned to student programs, shall be used primarily for:

(1) The regularly established teaching, research, or public service activities of the college and its departments or related agencies.

(2) Cultural, educational, or recreational activities of the students, faculty or staff.

(3) Short courses, conferences, seminars, or similar events, conducted either in the public service or for the advancement of specific departmental professional interests, when arranged under the sponsorship of the college or its departments.

(4) Public events of a cultural or professional nature brought to the campus at the request of college departments or committees and presented with their active sponsorship and active participation.

(5) Activities or programs sponsored by educational institutions, by state or federal agencies, by charitable agencies or civic or community organizations whose activities are of widespread public service and of a character appropriate to the college.

(6) College facilities shall be assigned to student organizations for regular business meetings, social functions and for programs open to the public. Any recognized campus student organization may invite speakers from outside the college community. In conformance with state guidelines, the appearance of an invited speaker on campus does not represent an endorsement by the college, its students, faculty, administration, or the board of trustees, whether implicit or explicit, of the speaker's views.

(7) Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to insure the proper maintenance of the facilities. Subject to the same limitations, college facilities shall be made available for assignment to individuals or groups within the college community. Arrangements by both organizations and individuals must be made through the designated administrative officer. Allocation of space shall be made in accordance with college regulations and on the basis of time, space, priority of request and the demonstrated needs of the applicant.

(8) The college may restrict an individual's or a group's use of college facilities if that person or group has, in the past, physically abused college facilities. Charges may be imposed for damage or for any unusual costs for the use of facilities. The individual, group or

organization requesting space will be required to state in advance the general purpose of any meeting.

#### NEW SECTION

**WAC 132D-140-030 STATEMENT OF INTENTIONS.** The college neither intends nor desires to compete with any local agency or private enterprise in making its facilities available to the community. Privately operated facilities exist which are well qualified to best meet many community needs. The college encourages the community to patronize local businesses or agencies. With this approach, the college hopes to work cooperatively with local private enterprise to the mutual benefit of all concerned.

#### NEW SECTION

**WAC 132-140-040 GENERAL POLICIES LIMITING USE.** (1) College facilities may not be used for purposes of political campaigning by or for candidates who have filed for public office except for student-sponsored activities or forums.

(2) Religious groups shall not, under any circumstances, use the college facilities as a permanent meeting place. Use shall be intermittent only.

(3) The college reserves the right to prohibit the use of college facilities by groups which restrict membership or participation in a manner inconsistent with the college's commitment to non-discrimination as set forth in its written policies and commitments.

(4) Activities of a political or commercial nature will not be approved if they involve the use of promotional signs or posters on buildings, trees, walls, or bulletin boards, or the distribution of samples outside the rooms or facilities to which access has been granted.

(5) These general policies shall apply to recognized student groups using college facilities.

(6) Handbills, leaflets, and similar materials except those which are commercial, obscene, or unlawful may be distributed only in designated areas on the campus where, and at times when, such distribution shall not interfere with the orderly administration of the college affairs or the free flow of traffic. Any distribution of materials as authorized by the designated administrative officer and regulated by established guidelines shall not be construed as support or approval of the content by the college community or the board of trustees.

(7) Use of audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of college affairs as determined by the appropriate administrative officer.

(8) No person or group may use or enter onto college facilities having in their possession firearms, even if licensed to do so, except commissioned police officers as prescribed by law.

(9) The right of peaceful dissent within the college community shall be preserved. The college retains the right to insure the safety of individuals, the continuity of the educational process, and the protection of property. While peaceful dissent is acceptable, violence or disruptive behavior is an illegitimate means of dissent. Should any person, group or organization attempt to resolve

differences by means of violence, the college and its officials need not negotiate while such methods are employed.

(10) Orderly picketing and other forms of peaceful dissent are protected activities on and about the college premises. However, interference with free passage through areas where members of the college community have a right to be, interference with ingress and egress to college facilities, interruption of classes, injury to persons, or damage to property exceeds permissible limits.

(11) Where college space is used for an authorized function (such as a class or a public or private meeting under approved sponsorship, administrative functions or service related activities), groups must obey or comply with directions of the designated administrative officer or individual in charge of the meeting.

(12) If a college facility abuts a public area or street, and if student activity, although on public property, unreasonably interferes with ingress and egress to college buildings, the college may choose to impose its own sanctions although remedies might be available through local law enforcement agencies.

**Reviser's note:** The above new section was filed by the institution as WAC 132-140-040. This section is placed among sections forming new chapter 132D-140 WAC, and therefore should be numbered WAC 132D-140-040. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the institution.

**Reviser's note:** The spelling errors in the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 132D-140-050 ADMINISTRATIVE CONTROL.** The board hereby delegates to the President authority to set up administrative procedures for proper review of the use of college facilities; to establish, within the framework of these policies, regulations governing such use; and to establish rental schedules where appropriate.

#### NEW SECTION

**WAC 132D-140-060 TRESPASS.** (1) Individuals who are not students or members of the faculty or staff and who violate these regulations will be advised of the specific nature of the violation, and if they persist in the violation, they will be requested by the president, or his or her designee, to leave the college property. Such a request prohibits the entry of and withdraws the license or privilege to enter onto or remain upon any portion of the college facilities by the person or group of persons requested to leave. Such persons shall be subject to arrest under the provisions of Chapter 9A.52 RCW.

(2) Members of the college community (students, faculty, and staff) who do not comply with these regulations will be reported to the appropriate college office or agency for action in accord with established college policies.

(3) Persons who violate a district policy may have their license or privilege to be on district property revoked and be ordered to withdraw from and refrain from

entering upon any district property. Remaining on or re-entering district property after one's license or privilege to be on that property has been revoked shall constitute trespass and such individual shall be subject to arrest for criminal trespass.

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the institution and appears herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 132D-140-070 PROHIBITED CONDUCT AT COLLEGE FACILITIES.** (1) State law relative to public institutions governs the use or possession of intoxicants on campus or at college functions. The use or possession of unlawful drugs or narcotics, not medically prescribed, on college property or at college functions, is prohibited. Students obviously under the influence of intoxicants, unlawful drugs or narcotics while in college facilities shall be subject to disciplinary action.

(2) The use of tobacco is restricted in accordance with published policy.

(3) Destruction of property is also prohibited by state law in reference to public institutions.

#### NEW SECTION

**WAC 132D-140-080 CONTROL OF PETS IN COLLEGE FACILITIES.** Pets are not permitted in campus buildings or on the grounds except guide or service dogs for the visually or hearing impaired as provided in Chapter 70.84 RCW.

#### **WSR 89-06-013**

#### **ADOPTED RULES**

#### **LIQUOR CONTROL BOARD**

[Order 278, Resolution No. 287—Filed February 23, 1989]

Be it resolved by the Washington State Liquor Control Board, acting at the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504-2531, that it does adopt the annexed rules relating to Packages—Classification, WAC 314-20-030.

This action is taken pursuant to Notice No. WSR 89-03-040 filed with the code reviser on January 12, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** February 22, 1989.

By Paula C. O'Connor  
Chairman

AMENDATORY SECTION (Amending Order 272, Resolution No. 281, filed 12/8/88)

**WAC 314-20-030 PACKAGES—CLASSIFICATION.** (1) No manufacturer, wholesaler or importer shall sell beer for use in the state of Washington in any packages or containers differing in sizes and case quantities from the manufacturer's original packages.

(2) Net contents—Packaged beer. Net contents shall be stated in a clearly legible manner on the label in fluid ounces or as follows:

(a) If less than 1 pint, in fluid ounces, or fractions of a pint;

(b) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated;

(c) If more than 1 pint, but less than 1 quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces;

(d) If more than 1 quart, but less than 1 gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces;

(e) If more than 1 gallon, the net contents shall be stated in gallons and fractions thereof;

(f) The net contents need not be stated on any label if the net contents are displayed by having the same blown, branded, or burned in the container in letters or figures in such manner as to be plainly legible under ordinary circumstances and such statement is not obscured in any manner in whole or in part.

(3) Container size limitations—Barrels. Whole barrels (31 gallons), 1/2 barrels (15.5 gallons), 1/4 barrels (7.75 gallons), 1/6 barrels (5.16 gallons). Packaged beer—Maximum capacity for individual containers, 170 fluid ounces: PROVIDED, HOWEVER, That the board may, in its discretion, authorize the importation and sale for use in the state of Washington of beer in other container and/or barrel size packages which have been approved for marketing within the United States by the Bureau of Alcohol, Tobacco, and Firearms, United States Treasury Department: PROVIDED FURTHER, That the board may, in its discretion, authorize a brewery with Class H privileges to dispense beer directly from conditioning tanks/vessels to the Class H area provided the taxes have been paid prior to dispensing.

(4) The net contents of individual containers shall be stated on the outside of any multicontainer package where the individual container label or bottle size is not visible to the consumer at the point of purchase.

(5) Gift packages. A beer importer or beer wholesaler may prepare and sell "gift packages" consisting of containers of beer differing in case quantities from the manufacturer's original case capacities provided the tax has been paid on the previously purchased beer in accordance with RCW 66.24.290 and provided written approval by the board has been obtained.

**WSR 89-06-014****ADOPTED RULES****DEPARTMENT OF AGRICULTURE**

[Order 1995—Filed February 23, 1989]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to restricted feedlots, chapter 16-30 WAC.

This action is taken pursuant to Notice No. WSR 89-02-056 filed with the code reviser on January 4, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 16.36.040 and 16.36.050 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 22, 1989.

By C. Alan Pettibone  
Director

AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

**WAC 16-30-010 DEFINITION.** A restricted feedlot shall mean a dry feed yard where cattle not known to be exposed to brucellosis and not vaccinated against brucellosis are restricted to prevent their ((safe)) use for breeding purposes.

AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

**WAC 16-30-020 PERMIT APPLICATIONS.** Applicants for restricted feedlots must furnish the following information on an application form to be obtained from the department of agriculture:

- (1) Name and address of applicant.
- (2) Location of feedlot.
- (3) Drawing ((to show the relation)) of the feedlot ((to the rest of the farmstead)) layout.
- (4) ((Number of native cattle on farm: ))
- ((5))) Operations in livestock other than the feeding of cattle.

NEW SECTION

**WAC 16-30-025 RESTRICTED FEEDLOT CATEGORIES.** There shall be category I and category II restricted feedlots.

(1) Category I restricted feedlots may, upon approval of the state veterinarian, buy and import cattle from feedlots in states classified "Class A" for brucellosis that may be under state quarantine if the feedlot does not contain reactors or has not had reactors for a minimum period of one hundred eighty days. Such cattle may move interstate if they are not test eligible without further restriction. Test eligible cattle which are not brucellosis exposed and from herds not known to be affected

(state quarantined feedlots) may be moved interstate to category I restricted feedlots if they are tested negative within thirty days prior to movement and are accompanied by a health certificate. Category I restricted feedlots may not import cattle from a state-federal quarantined feedlot.

(2) Category II restricted feedlots may not import cattle from any feedlot which is classified as a quarantined feedlot by another state. Category II restricted feedlots may sell cattle to category I restricted feedlots but may not receive cattle from category I feedlots.

#### AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

~~WAC 16-30-030 ((CERTIFIED STATEMENTS REQUIRED)) CONDITIONS OF PERMIT.~~ ~~((In addition to the information furnished in the application each applicant must certify to the following))~~ (1) The operator of a category I restricted feedlot must abide by the following conditions:

((1))) (a) That there shall be no contact with other animals not also similarly and commonly restricted.

((2))) (b) That no animal, except steers and spayed heifers for temporary grazing purposes only, shall be moved from the feed yard except to a federally inspected slaughter plant or to a licensed public livestock market for immediate slaughter.

((3))) (c) That the yard will be maintained in a sanitary condition.

((4))) (d) That the department of agriculture will be notified immediately of any outbreak of any infectious or contagious disease.

((5))) (e) That the disposition of dead animals will be in accordance with the laws relating to the disposal of dead animals.

((6))) (f) That accurate records will be kept accounting for all animals entering the feedlot.

(2) The operator of a category II restricted feedlot must abide by the following conditions:

(a) That there shall be no intermingling with other animals not also similarly and commonly restricted.

(b) That no animal shall be moved from the feed yard except to a federally inspected slaughter plant, to a licensed public livestock market for immediate slaughter, or to a feedlot of like status, except:

(i) Steers and spayed heifers which are unrestricted in movement.

(ii) Calves born in the feedlot which are unrestricted in movement.

(iii) Restricted cattle moved for temporary grazing purposes.

(c) Nonbrucellosis vaccinated females must be "F" branded when moved other than directly to slaughter or to another feedlot of like status.

(d) That the yard will be maintained in a sanitary condition.

(e) That the department of agriculture will be notified immediately of any outbreak of any reportable infectious or contagious disease.

(f) That the disposition of dead animals will be in accordance with the laws relating to the disposal of dead animals.

(g) That accurate records will be kept accounting for all animals entering and leaving the feedlot and open for review by authorized department of agriculture personnel during any normal business hours.

(h) That any bulls or brucellosis vaccinated females removed from the yard for any other than the above purposes must move by permit from the state veterinarian and on an official certificate of veterinary inspection prepared by an accredited veterinarian.

#### AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

WAC 16-30-050 BRANDS. Before a permit is issued for a restricted feedlot the operator or owner must have recorded with the state department of agriculture ((a brand)) an "F" brand number to be used exclusively ((within said feedlot)) by said operator. Such a brand shall consist of the letter "F" followed by a number assigned by said department((. PROVIDED, That by special permission of the director of agriculture or his duly authorized representative the holder of such a brand may be allowed to use his brand on cattle in certain other specified restricted feedlots)).

#### AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

WAC 16-30-060 BRAND TIME. For the purpose of proper identification, all cattle, except steers and spayed heifers, arriving at a category I restricted feedlot must be branded with the aforementioned "F" brand within forty-eight hours after arrival. Use of such brands on steers and properly identified spayed heifers shall be optional.

#### AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

WAC 16-30-070 PLACE OF BRAND. The aforementioned "F" brand shall be placed immediately behind the shoulder and high on the back. In the event a brand is already situated there, the feedlot brand may be placed ((directed)) directly in front of or below the existing brand, but must not deface the existing brand: PROVIDED, The restricted feedlot operators or owners who now place their duly recorded "F" brands in the area between the point of the shoulder and the jaw shall continue to so brand, or they may apply to the registrar of brands, department of agriculture, to change the position to which their brand is affixed to the new position without charge.

#### AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

WAC 16-30-090 FEEDLOT REQUIREMENTS. All restricted feedlots must be so constructed and so located that they comply with the following:

(1) That there shall be no ((contact)) intermingling with other animals not also similarly and commonly restricted.

(2) ((The lot is drained or surfaced to keep the yard reasonably free of mud.))

((3))) Proper facilities exist for inspection of brands ((and for holding imports separate until properly identified in cattle feedlots)), branding and identification of cattle.

((4) There shall be no regular stream or drainage therefrom to any area where nonrestricted females or males are held:)) (3) Any violation of chapter 16.36 RCW or any of the rules adopted under that chapter shall be sufficient cause for the suspension or revocation of any permit to operate a restricted feedlot. In all proceedings for suspension or revocation, the action shall be undertaken pursuant to the provisions of chapter 34.04 RCW.

**AMENDATORY SECTION** (Amending Order 955, Regulation 10, filed 8/31/64)

~~WAC 16-30-100 CRIMINAL PENALTY—CIVIL INJUNCTION. ((Revised Code of Washington (RCW 16.36.110) provides:)) A violation of or failure to comply with any of the provisions of this chapter shall be ((a misdemeanor. Each day upon which the violation occurs shall constitute a separate violation. Any person violating the provisions of RCW 16.36.005, 16.36.020, 16.36.103, 16.36.105, 16.36.107, 16.36.108 or 16.36.109 may be enjoined from continuing such violation. Revised Code of Washington (RCW 16.57.360) further provides: The violation of any provisions of this chapter and/or rules and regulations adopted hereunder shall constitute a misdemeanor unless otherwise specified herein)) criminally punishable, as provided under RCW 16.36.110.~~

**WSR 89-06-015  
ADOPTED RULES  
DEPARTMENT OF REVENUE**  
[Order 89-3—Filed February 23, 1989]

I, Garry G. Fujita, assistant director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to sales of goods originating in other states to persons in Washington, amending WAC 458-20-193B.

This action is taken pursuant to Notice Nos. WSR 88-23-116 and 89-02-052 filed with the code reviser on November 23, 1988, and January 3, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 82.32.300.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 23, 1989.

By Garry G. Fujita  
Assistant Director

**AMENDATORY SECTION** (Amending Order ET 83-16, filed 3/15/83)

**WAC 458-20-193B SALES OF GOODS ORIGINATING IN OTHER STATES TO PERSONS IN WASHINGTON.**

WAC 458-20-193 deals with interstate and foreign commerce and is published in four separate parts:

- Part A. Sales of goods originating in Washington to persons in other States.
- Part B. Sales of goods originating in other states to persons in Washington.
- Part C. Imports and exports: Sales of goods from or to persons in foreign countries.
- Part D. Transportation, communication, public utility activities, or other services in interstate or foreign commerce.

**Part B.**

**BUSINESS AND OCCUPATION TAX**

**RETAILING, WHOLESALING.** Sales to persons in this state are taxable when the property is shipped from points outside this state to the buyer in this state and the seller carries on or has carried on in this state any local activity which is significantly associated with the seller's ability to establish or maintain a market in this state for the sales. If a person carries on significant activity in this state and conducts no other business in this state except the business of making sales, this person has the distinct burden of establishing that the instate activities are not significantly associated in any way with the sales into this state. The characterization or nature of the activity performed in this state is immaterial so long as it is significantly associated in any way with the seller's ability to establish or maintain a market for its products in this state. The essential question is whether the instate services enable the seller to make the sales.

Applying the foregoing principles to sales of property shipped from a point outside this state to the purchaser in this state, the following activities are examples of sufficient local nexus for application of the business and occupation tax:

- (1) The seller's branch office, local outlet or other place of business in this state is utilized in any way, such as in receiving the order, franchise or credit investigation, or distribution of the goods.
- (2) The order for the goods is given in this state to an agent or other representative connected with the seller's branch office, local outlet, or other place of business.
- (3) The order for the goods is solicited in this state by an agent or other representative of the seller.
- (4) The delivery of the goods is made by a local outlet or from a local stock of goods of the seller in this state.
- (5) Where an out-of-state seller, either directly or by an agent or other representative, performs significant services in relation to establishment or maintenance of sales into the state, the business tax is applicable, even though (a) the seller may not have formal sales offices in

Washington or (b) the agent or representative may not be formally characterized as a "salesman."

(6) Where an out-of-state seller either directly or by an agent or other representative in this state installs its products in this state as a condition of the sale, the installation services shall be deemed significant services for establishing or maintaining a market in this state for such installed products and the gross proceeds from the sale and installation are subject to business tax.

Under the foregoing principles, sales transactions in which the property is shipped directly from a point outside the state to the purchaser in this state are exempt only if there is and there has been no participation whatsoever in this state by the seller's branch office, local outlet, or other local place of business, or by an agent or other representative of the seller. A franchise or credit investigation of a prospective purchaser and/or recommendation or approval by a local office upon which subsequent transactions are based is such a utilization of the local office as to render such subsequent transactions taxable.

**CONSTRUCTION, REPAIR.** Construction or repair of buildings or other structures, public road construction, repair of tangible personal property and similar contracts performed in this state are inherently local business activities subject to tax even though materials involved may have been delivered from outside the state or the contracts may have been negotiated outside the state and notwithstanding the fact that the work may be done by foreign vendors who performed preliminary services outside the state with respect thereto.

**RENTING OR LEASING OF TANGIBLE PERSONAL PROPERTY.** Persons outside this state who rent or lease tangible personal property for use in this state are subject to tax upon their gross proceeds from such rentals, irrespective of the fact that possession to the property leased may have passed to the lessee outside the state or that the lease agreement may have been consummated outside the state.

#### SALES AND USE TAX

Retail sales tax must be collected and accounted for in every case where business and occupation tax is due as outlined above.

The following sets forth the conditions under which out-of-state vendors are required to collect and remit the retail sales tax or use tax on deliveries to customers in this state. It conforms to the recommended jurisdiction standards of the multistate tax commission.

**JURISDICTION STANDARD.** A vendor is required to pay or collect and remit the tax imposed by chapter 82.08 or 82.12 RCW if within this state he directly or by any agent or other representative:

(1) Has or utilizes an office, distribution house, sales house, warehouse, service enterprise or other place of business; or

(2) Maintains a stock of goods; or

(3) Regularly solicits orders whether or not such orders are accepted in this state, unless the activity in this state consists solely of advertising or of solicitation by direct mail; or

(4) Regularly engages in the delivery of property in this state other than by common carrier or U.S. mail; or

(5) Regularly engages in any activity in connection with the leasing or servicing of property located within this state; or

(6) Is liable for use tax collection under the terms of WAC 458-20-221.

All vendors who are registered with the department of revenue are required to collect use tax or sales tax from all persons to whom goods are sold for use in this state irrespective of the absence of local activity on any given sale.

Every person who engages in this state in the business of acting as an independent selling agent for unregistered principals, and who receives compensation by reason of sales of tangible personal property of such principals for use in this state, is required to collect the use tax from purchasers, and remit the same to the department of revenue, in the manner and to the extent set forth in WAC 458-20-221.

The use tax is imposed upon the use, including storage, of all tangible personal property acquired for any use or consumption in this state unless specifically exempt by statute.

#### WSR 89-06-016

#### ADOPTED RULES

#### DEPARTMENT OF REVENUE

[Order 89-4—Filed February 23, 1989—Eff. April 1, 1989]

I, Garry G. Fujita, assistant director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to collection of use tax by retailers and selling agents, amending WAC 458-20-221.

This action is taken pursuant to Notice Nos. WSR 88-23-116 and 89-02-052 filed with the code reviser on November 23, 1988, and January 3, 1989. These rules shall take effect at a later date, such date being April 1, 1989.

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 82.32.300.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 23, 1989.

By Garry G. Fujita  
Assistant Director

#### AMENDATORY SECTION (Amending Order ET 83-1, filed 3/30/83)

WAC 458-20-221 COLLECTION OF USE TAX BY RETAILERS AND SELLING AGENTS. ((Every person who has obtained a certificate of registration (see WAC 458-20-101) is required to collect the use tax from retail buyers in this state, and to report and remit the same to the department of revenue.)) (1) STATUTORY

REQUIREMENTS. RCW 82.12.040(1) provides that every person who maintains a place of business in this state, maintains a stock of goods in this state, or engages in business activities within this state must obtain a certificate of registration and must collect use tax from purchasers at the time it makes sales of tangible personal property for use in this state. The legislature has directed the department of revenue to specify, by rule, activities which constitute engaging in business activities within this state. These are activities which are sufficient under the Constitution of the United States to require the collection of use tax.

(2) DEFINITIONS.

(a) "Maintains a place of business in this state" includes:

(i) Maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business; or

(ii) Soliciting sales or taking orders by sales agents or traveling representatives.

(b) "Engages in business activities within this state" includes:

(i) Purposefully or systematically exploiting the market provided by this state by any media-assisted, media-facilitated, or media-solicited means, including, but not limited to, direct mail advertising, unsolicited distribution of catalogues, computer-assisted shopping, telephone, television, radio or other electronic media, or magazine or newspaper advertisements or other media; or

(ii) Being owned or controlled by the same interests which own or control any seller engaged in business in the same or similar line of business in this state; or

(iii) Maintaining or having a franchisee or licensee operating under the seller's trade name in this state if the franchisee or licensee is required to collect use tax.

(c) "Purposefully or systematically exploiting the market provided by this state" is presumed to take place if the gross proceeds of sales of tangible personal property delivered from outside this state to destinations in this state exceed five hundred thousand dollars during a period of twelve consecutive months.

(3) LIABILITY OF BUYERS FOR USE TAX. Persons in this state who buy articles of tangible personal property at retail are liable for use tax if they have not paid sales tax. See WAC 458-20-178.

(4) OBLIGATION OF SELLERS TO COLLECT USE TAX. Persons who obtain a certificate of registration, maintain a place of business in this state, maintain a stock of goods in this state, or engage in business activities within this state are required to collect use tax from persons in this state to whom they sell tangible personal property at retail and from whom they have not collected sales tax. Use tax collected by sellers shall be deemed to be held in trust until paid to the department. Any seller failing to collect the tax or, if collected, failing to remit the tax is personally liable to the state for the amount of tax. (For exceptions as to sale to certain persons engaged in interstate or foreign commerce see WAC 458-20-175.)

(5) LOCAL USE TAX. Persons who are obligated to collect use tax solely because they are engaged in business activities within this state as defined in subsection (2)(b)(i) of this section may elect to collect local use tax at a uniform state-wide rate of .005 without the necessity of reporting taxable sales to the local jurisdiction of delivery. Amounts collected under the uniform rate shall be allocated by the department to counties and cities in accordance with ratios reflected by the distribution of local sales and use taxes collected from all other taxpayers. Persons not electing to collect at the uniform state-wide rate or not eligible to collect at the uniform state rate shall collect local use tax in accordance with WAC 458-20-145.

(6) REPORTING FREQUENCY. Persons who are obligated to collect use tax solely because they are engaged in business activities within this state as defined in subsection (2)(b) of this section shall not be required to file returns and remit use tax more frequently than quarterly.

(7) SELLING AGENTS. RCW 82.12.040 of the law provides, among other things, as follows:

(a) "Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property of his principals made for use in this state, shall, at the time such sales are made, collect from the purchasers the tax imposed under this chapter, and for that purpose shall be deemed a retailer as defined in this chapter." ((For exceptions as to sale to certain persons engaged in interstate or foreign commerce see WAC 458-20-175.)))

(b) However, in those cases where the agent receives compensation by reason of a sale made pursuant to an order given directly to his principal by the buyer, and of which the agent had no knowledge at the time of sale, the said agent will be relieved of all liability for the collection of or payment of the tax. Furthermore, in other cases where payment is made by the buyer direct to the principal and the agent is unable to collect the tax from the buyer, the agent will be relieved from all liability for the collection of the tax from the buyer and for payment of the tax to the department, provided that within ten days after receipt of commission on any such sale, the agent shall forward to the department a written statement showing the following: Name and address of purchaser, date of sale, type of goods sold, and selling price. (Agents may avoid all liability for collection of this tax, provided their principals obtain a certificate of registration.)

(8) TIME AND MANNER OF COLLECTION. The use tax is computed upon the value of the property sold. At the time of making a sale of tangible personal property, the use of which is taxable under the use tax, the seller must collect the tax from the purchaser and upon request give to the purchaser a receipt therefor. This receipt need not be in any particular form, and may be an invoice which identifies the property sold, shows the sale price thereof and the amount of the tax. It is a misdemeanor for a retailer to refund, remit, or rebate to a purchaser or

transferee, either directly or indirectly, by whatever means, all or any part of the use tax.

((The law provides that the tax required to be collected shall be deemed to be held in trust until paid to the department and shall be available for payment on the due date thereof, and that the tax shall not be absorbed by the retailer but shall be collected as a separate item and that the retailer shall be personally liable for any tax which he fails to collect. (See WAC 458-20-178.)))  
(9) EFFECTIVE DATE. This rule shall take effect on April 1, 1989.

~~(2) All projects with a priority one or two status pursuant to WAC 180-27-058).~~

**WSR 89-06-017**  
**EMERGENCY RULES**  
**STATE BOARD OF EDUCATION**  
[Order 1-89—Filed February 23, 1989]

Be it resolved by the State Board of Education, acting at the Quinault Room of the Tyee Hotel, Olympia, Washington, that it does adopt the annexed rules relating to preliminary funding status to certain projects, WAC 180-26-055.

We, the State Board of Education, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is foreseeable shortages in common school construction funding and changes in funding eligibility rules.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the State Board of Education as authorized in RCW 28A.47.060, 28A.47.802 and 28A.47.830.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** January 27, 1989.

By Monica Schmidt  
Secretary

**AMENDATORY SECTION** (Amending Order 24-85, filed 11/27/85)

**WAC 180-26-055 PRELIMINARY FUNDING STATUS TO CERTAIN PROJECTS.** Notwithstanding the provisions of WAC 180-26-050, ((the following)) all projects with secured local capital funding and authority to proceed pursuant to WAC 180-25-040 as of September 30, 1985, shall be granted preliminary funding status by the superintendent of public instruction ((thirty days after the effective date of this section)).

((1) All projects with secured local capital funding and authority to proceed pursuant to WAC 180-25-040 as of September 30, 1985.

**WSR 89-06-018**  
**EMERGENCY RULES**  
**STATE BOARD OF EDUCATION**  
[Order 2-89—Filed February 23, 1989]

Be it resolved by the State Board of Education, acting at the Quinault Room of the Tyee Hotel, Olympia, Washington, that it does adopt the annexed rules relating to project approval moratorium, WAC 180-25-300.

We, the State Board of Education, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is project approvals granted by the State Board of Education to date already represent the foreseeable total state common school construction revenues available during the 1989-91 biennium.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the State Board of Education as authorized in RCW 28A.47.060, 28A.47.802 and 28A.47.830.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** January 27, 1989.

By Monica Schmidt  
Secretary

**NEW SECTION**

**WAC 180-25-300 PROJECT APPROVAL MORATORIUM.** Notwithstanding any provision of this chapter to the contrary, the state board of education hereby imposes a moratorium upon granting any project approval pursuant to WAC 180-25-040, 180-25-045, 180-29-025, and 180-29-030.

**WSR 89-06-019**  
**EMERGENCY RULES**  
**STATE BOARD OF EDUCATION**  
[Order 3-89—Filed February 23, 1989]

Be it resolved by the State Board of Education, acting at the Quinault Room of the Tyee Hotel, Olympia, Washington, that it does adopt the annexed rules relating to project approval moratorium, WAC 180-29-300.

We, the State Board of Education, find that an emergency exists and that this order is necessary for the

preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is project approvals granted by the State Board of Education to date already represent the foreseeable total state common school construction revenues available during the 1989-91 biennium.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the State Board of Education as authorized in RCW 28A.47.060, 28A.47.802 and 28A.47.830.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 27, 1989.

By Monica Schmidt  
Secretary

#### NEW SECTION

**WAC 180-29-300 PROJECT APPROVAL MORATORIUM.** Notwithstanding any provision of this chapter to the contrary, the state board of education hereby imposes a moratorium upon granting any project approval pursuant to WAC 180-25-040, 180-25-045, 180-29-025, and 180-29-030.

#### **WSR 89-06-020**

#### **PROPOSED RULES**

#### **UTILITIES AND TRANSPORTATION COMMISSION**

[Filed February 23, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to information to shippers of household goods, WAC 480-12-445. The proposed amendatory section is shown below as Appendix A, Cause No. TV-2253. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00 a.m., Wednesday, April 5, 1989, in the Commission's Hearing Room, Second Floor, 1300 South Evergreen Park Drive S.W., Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 80.01.040 and 81.80.290.

The specific statute these rules are intended to implement is chapter 81.80 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 31, 1989.

Dated: February 21, 1989

By: Paul Curl  
Acting Secretary

#### **STATEMENT OF PURPOSE**

In the matter of amending WAC 480-12-445 relating to information to shippers of household goods.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 81.80.290 which direct that the commission has authority to implement the provisions of chapter 81.80 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to simplify information to persons as to their rights, duties, and privileges when using the services of household goods carriers operating under permit issued by the commission.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, phone (206) 753-6451, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040 and 81.80.290.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule changes proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

#### **APPENDIX "A"**

#### **AMENDATORY SECTION (Amending Order R-281, Cause No. TV-2119, filed 12/23/87)**

**WAC 480-12-445 INFORMATION TO SHIPPER.** Whenever a written estimate is submitted to a prospective shipper of household goods, the carrier shall furnish such shipper a printed statement, in not less than eight-point bold or full-faced type, in substantially the form set forth below, and the carrier shall make an appropriate notation, on the face of the estimate, that such printed statement has been furnished. Where no estimate is given, the statement shall be furnished to the shipper prior to the time the goods are moved, and a notation that such statement has been furnished shall appear on the bill of lading.

#### **GENERAL INFORMATION FOR SHIPPERS OF HOUSEHOLD GOODS BY MOTOR CARRIERS IN INTRASTATE COMMERCE**

This statement is of importance to you as a shipper of household goods and is being furnished by the carrier pursuant to a requirement of the Washington utilities and transportation commission. It relates to the transportation of household goods, in intrastate commerce by motor carriers frequently called "movers" but hereinafter referred to as carriers. Some carriers perform the transportation themselves. Others act as agent for the carriers which do the actual hauling. In some instances, the transportation is arranged by brokers. You should be sure

to obtain the complete and correct name, home address, and telephone number of the carrier which is to transport your shipment, and keep that carrier informed as to how and where you may be reached at all times until the shipment is delivered.

Before completing arrangements for the shipment of your household goods, all of the information herein should be considered carefully by you.

((Estimates. REGARDLESS OF ANY PRIOR ESTIMATE RECEIVED, for the carriage of your shipment, you will be required to pay transportation charges and other charges computed in accordance with tariffs published by the Washington utilities and transportation commission. The total charges which you will be required to pay may be more, or less, than the estimate received from the carrier. Any services not included on the original estimate of charges must be listed on a supplemental estimate and acknowledged in writing by the shipper prior to the performance of the additional services.)

~~Tariff.~~ This is a publication by the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Dr., S.W., Olympia, Washington, containing charges and rules of carriers engaged in the transportation of household goods. The rates, rules and provisions are the same for all carriers and tariff is open to public inspection and may be examined at the carrier's office. The tariff rules, rates and regulations of the carrier serving you must be considered in determining the charges on your shipment. Among the rules and regulations will be found special provisions applicable to shipments picked up or delivered at more than one place; packing and marking; diversion of shipments en route; and additional services, the charges for which are called accessory charges, and which include services such as packing, unpacking, the furnishing of boxes or other containers, and carrying goods up or down steps. The tariff of the carrier serving you contains rules relating to the subjects which follow:

~~Preparing articles for shipment.~~ If your shipment includes a stove, refrigerator, washing machine, or some other article requiring special servicing, including disconnection, prior to movement, such special servicing should be performed by a person employed by you who is especially trained to perform the work. Such servicing is not the responsibility of the carrier. Similarly you should arrange to take down all blinds, draperies, window cornices, mirrors, and other items attached to the walls, and to take up carpets which are tacked down. The charge for such service is not included in the transportation charge and will be performed by the carrier only at an extra per-hour charge. Under no circumstances should you pack jewelry, money, or valuable papers with your other belongings or matches, inflammables, or other dangerous articles.

~~Transportation rates and released values.~~ Rates are stated on an hourly basis for local moving within towns or cities or for any distance thirty-five miles or less. The base rates are established for declared valuation of the shipment, which establishes the amount a shipper may recover from the carrier if the goods are lost or damaged. The base rates apply if the shipper releases the goods at a value of sixty cents per pound per article. When a released valuation is established by the shipper in excess of sixty cents per pound per article on a lump sum for the entire shipment, then an excess valuation charge will apply. Alternatively, you may elect to ship at the base rate and arrange, at your own expense, to obtain insurance to protect you for a greater amount. Rates for hauling within Washington beyond thirty-five miles are stated in amounts per one hundred pounds, depending on the distance involved. The charges will vary according to the released or declared value of the shipment. The carrier's tariff provides that at its base rates the carrier's responsibility for loss or damage caused by it is limited to sixty cents per pound of actual weight of each lost or damaged article. If you wish to be paid full value for lost or damaged items which are worth more than sixty cents per pound, you must declare, before shipping, a lump sum value and pay an extra charge for such value. Payment of the charge establishes the declared value as the maximum amount you may recover from the carrier for loss or damage, unless the damage is caused by an event or development excluded by the terms of the carrier's printed bill of lading, of which you should have a copy. If you do not declare any lump sum value, or a value less than one dollar and twenty-five cents per pound, the shipment will be deemed to have been released at one dollar and twenty-five cents per pound, and an additional charge per one hundred dollars of value will be applied. If you wish to avoid these extra charges, you must agree, in writing, on the bill of lading, that if any articles are lost or damaged, the carrier's liability will not exceed sixty cents per pound for the actual weight of any lost or damaged articles in the shipment.

~~Cargo protection.~~ A carrier's liability for loss or damage is limited by the bill of lading, the value of goods declared thereon by the shipper, and its tariffs. If greater protection than that afforded under the lowest transportation rate is desired, the shipper will be required to so indicate on the bill of lading prior to the time the goods are loaded. The carrier will assess a transportation valuation charge on the freight bill for the greater protection.

~~Weights.~~ The transportation charges will be determined on the basis of the weight of your shipment. Ordinarily, the carrier will weigh its empty or partially loaded vehicle prior to the loading of your goods. After loading, it will again weigh the vehicle and determine the weight of your shipment. If your shipment weighs less than one thousand pounds, the carrier may weigh it prior to loading.

If you so request, the carrier will notify you of the weight of your shipment and the charges as soon as the weight has been determined. Further, if you question the weight reported by the carrier, you may request that the shipment be reweighed prior to delivery. Reweighting will be accomplished only where it is practicable to do so. An extra charge may be made for reweighing, but only if the difference between the two net weights obtained does not exceed one hundred pounds (if your shipment weighs five thousand pounds or less) or does not exceed two percent of the lower net weight (if your shipment weighs more than five thousand pounds). The lower of the two net weights must be used in determining the charges.

~~Exclusive use of the vehicle.~~ If you do not desire to have the goods belonging to someone else transported with your shipment, you may direct the carrier to grant you the exclusive use of the vehicle. In such event, however, the charges will probably be much greater.

~~Expedited service.~~ Carriers are not ordinarily required to make delivery on a certain date or within a definite period of time. However, their tariffs generally contain a rule to the effect that, upon request of the shipper, goods weighing less than a designated weight—usually five thousand pounds—will be delivered on or before the date specified by the shipper. The transportation charges for such expedited service are based upon the higher weight (five thousand pounds) and, of course, are greater than the charges on shipments hauled at the carrier's convenience.

~~Small shipments.~~ If your shipment weighs less than the minimum weight prescribed in the carrier's tariff, it will be subject to the minimum charge provided therein. If your shipment weighs substantially less than the minimum weight prescribed by the carrier, you should give consideration to the possibility that it may be shipped more reasonably by other means of transportation, even if the expense of crating the items is taken into consideration.

~~Storage in transit.~~ In case you desire that your household goods be stored in transit, and delivered at a later date, you may usually obtain such service upon specific request. The length of time a shipment may be stored in transit is limited by the carrier's tariff, and additional charges are normally made for such service. At the end of the designated storage-in-transit period, and in the absence of final delivery instructions, the shipment will be placed in permanent storage, and the carrier's liability in respect thereof will cease. Any further service must be made the subject of a separate contract with the warehouseman. If you do not specifically request storage-in-transit from the carrier, but arrange with someone other than the carrier to pick up your goods for storage, you will be required to pay such other person for such service. Some warehouses make separate charges for checking goods out of storage, and collect dock charges from carriers for the space occupied by their vehicles while being loaded. Such charges are passed on to the shipper.

~~Bill of lading.~~ Before your shipment leaves point of origin, you should obtain from the carrier a bill of lading or receipt, signed by you and the carrier, showing the date of shipment, the names of the consignor and consignee, the points of origin and destination, a description of the goods, and the declared or released valuation thereof.

~~Payment of charges—freight bill.~~ You probably will have to pay all charges in cash, by money order, or by certified check before your shipment will be finally delivered. Therefore, when the shipment arrives at destination, you should be prepared to make such payment.

~~When paying charges on shipments moving more than thirty-five miles you should obtain a receipt for the amount paid setting forth the gross and tare weights of the vehicle, the net weight of your shipment, the mileage, the applicable rate per one hundred pounds for transportation, additional protection, and any accessory services performed. On shipments moving under thirty-five miles the receipt should show the time the vehicle left the premises of the mover and the time the~~

same vehicle returned thereto, the rate per hour and rates for any accessory services performed. Such receipt is called a freight bill or expense bill. In the event of loss or damage to the shipment, be sure to have the driver place appropriate notations on the freight bill. If the driver will not make such notations, you should have some disinterested party inspect the damage in the driver's presence and report same in writing to the home office of the carrier.

Loss or damage. If loss or damage is detected when the goods are delivered by the carrier, the fact of such loss or damage should be recorded by the shipper on the bill of lading, or delivery record. All claims for loss or damage must be filed with the carrier, in writing within nine months of delivery. Although the carriers are subject to the rules and regulations of the Washington utilities and transportation commission the commission has no authority to compel the carriers to settle claims for loss or damage and will not undertake to determine whether the basis for or the amount of such claims is proper, nor will it attempt to determine the carrier liable for such loss or damage. If the carrier will not voluntarily pay such claims, the only recourse of the shipper is the filing of a suit in a court of law. The names of the carrier's agents for service of process in this state may be obtained by writing the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Dr. S.W., Olympia, Washington.) ESTIMATES. Movers will, upon request, provide estimates of moving costs. They must be written. Oral or telephone estimates are not permitted. The accuracy of the estimate depends upon cooperation between the owner and the mover. SHOW THE MOVER EVERYTHING YOU WANT ON THE TRUCK AND DISCUSS ALL SERVICES YOU WANT PERFORMED. When moving day arrives, and you discover that there are additional items and services to be performed which were not covered by the original estimate, i.e., services and items you may have intended to take care of yourself, then the mover must provide you an additional estimate. Any services not included on the original estimate of charges must be listed on a supplement estimate and acknowledged in writing by the shipper prior to the performance of the additional services. Estimates are not binding on the mover. You are legally obligated to pay the transportation and other charges computed in accordance with the tariff published by the Washington utilities and transportation commission. However, if the charges exceed the original, and supplementary estimate, if any, the mover must at your request, deliver the shipment to you upon payment of not more than one hundred ten percent of the estimate. The balance of the charges shall be deferred for not more than thirty days following delivery of the shipment.

TARIFFS. The tariff is published by the Washington utilities and transportation commission. It contains rates, rules, and charges governing the transportation of household goods. The tariff applies to all movers and all Washington movers have the same rates. The tariff is available for public inspection at the mover's office. Among the rules and regulations are special provisions for shipments picked up or delivered at more than one place; packing and marking, furnishing of boxes, carrying goods up and down steps.

PREPARED ARTICLES FOR SHIPMENT. Some articles may require special servicing, including disconnection, to prepare them for being moved. These articles are usually large appliances, stereo sets, etc. If the mover prepares these articles there will be an extra charge. Also, if you wish to avoid extra per-hour charges, you should consider taking down drapes, blinds, window cornices, mirrors and any other articles attached to the walls. Movers are not responsible for articles of extraordinary value. Never pack jewelry, money, valuable papers, coin or other valuable collections with your other belongings. This applies also to inflammables or other dangerous articles.

#### COVERAGE BY THE MOVER IN CASE OF LOSS OR DAMAGE.

● THE DOLLAR AMOUNT OF RESPONSIBILITY YOUR MOVER HAS FOR LOSS OR DAMAGE TO YOUR HOUSEHOLD ARTICLES IS UP TO YOU.

● YOU SHOULD CHOOSE THE DOLLAR AMOUNT.

● WHAT THE MOVER IS OR IS NOT RESPONSIBLE FOR IS PRINTED ON THE BACK OF THE MOVER'S STANDARD MOVING CONTRACT (BILL-OF-LADING).

● GET A SAMPLE CONTRACT AND READ IT BEFORE YOU MOVE.

#### YOUR CHOICES OF COVERAGE ARE:

##### 1. Replacement cost coverage.

- a. No depreciation is applied to arrive at the amount you are paid for loss or damage.
- b. This coverage costs the most.

#### 2. Standard full value protection.

a. Depreciation will be applied in arriving at the amount you are paid for loss or damage.

b. This coverage costs less than replacement cost.

c. Partial coverage/one dollar and twenty-five cents per pound.

a. This is an arbitrary valuation.

b. The actual weight of all you move will be multiplied by one dollar and twenty-five cents per pound, and the result used as the value of all your goods.

c. One dollar and twenty-five cents per pound is a fraction of the value of the contents of the average home. Values much higher than one dollar and twenty-five cents per pound are common.

d. You may not receive full payment for a major or total loss.

e. This coverage costs less than full value protection.

f. Almost no coverage/sixty cents per pound per item.

a. This coverage can be totally inadequate in case of a major or total loss (as in the case of the moving truck being involved in an accident).

b. For loss or damage you will be paid up to sixty cents per pound times the weight of any lost or damaged article. For a crushed five pound lamp shade you would be paid three dollars (five lbs. times sixty cents).

c. There is no additional cost for this choice.

#### MOVING FROM CITY TO CITY/LONG DISTANCE.

1. All four choices are available.

2. If you make no choice, the mover will choose number 3 (one dollar and twenty-five cents per pound) for you.

#### MOVING WITHIN A LOCAL AREA.

1. All choices except number 3 (one dollar and twenty-five cents per lb.) are available.

2. If you make no choice, the mover will choose number 4 (sixty cents per lb.) for you.

WEIGHTS. For distance rated moving the transportation charge depends on the shipment's weight. While extra services (accessorial) and packing are important elements of the total, this paragraph deals with shipment weight. Ordinarily the carrier will weigh the vehicle before loading your goods as well as after loading. This determines the net weight of your shipment. If you so request, the mover will notify you of the weight and the charges as soon as the weight is established. A mover will reweigh the shipment before delivery, if this is requested, providing this is practicable. Reweighs cost extra, but only when the difference between the two net scale weights does not exceed certain parameters (one hundred pounds when the shipment is five thousand pounds or less, two percent of the lower net scale weight on shipments weighing over five thousand pounds).

EXPEDITED SERVICE. Movers do not have to make delivery at any definite time. However, at your request, a shipment will be delivered on or before the date specified. Such shipments may be subject to an extra charge.

SMALL SHIPMENTS. The minimum weight for shipments in distance moves is five hundred pounds. If your shipment weighs in this area, you should consider using other means of transportation even if you have to pay for crating and packing. Movers frequently find it difficult to deliver small shipments in a reasonable time.

TEMPORARY STORAGE. Upon request, you may place your goods in temporary storage for a period not to exceed one hundred eighty days. Additional charges are imposed for this service. If the shipment is not removed from temporary storage within one hundred eighty days the shipment will revert to permanent storage and the carrier ceases to have liability as a carrier. His liability becomes that of a warehouseman and the Washington utilities and transportation commission has no further jurisdiction over the shipment.

BILL OF LADING CONTRACT. The bill of lading is the contract between you and the mover. Before your shipment leaves the point of origin you should obtain a copy of this document. You should sign the bill of lading before transportation begins and sign it as a receipt upon delivery of the goods at destination.

PAYMENT OF CHARGES - FREIGHT BILL. Ordinarily movers will not deliver or relinquish possession of property until all tariff rates and charges have been paid in cash, certified check, traveler's check, or similar instruments. Some movers will accept bank cards. Shippers should be prepared to make payment for the move when the shipment is finally delivered.

When you make payment for distance shipments (more than thirty-five miles) your receipt for the charges should show gross and tare weights of the vehicle, the net weight of your shipment, mileage, the

rate per one hundred pounds for the transportation, additional protection and any other services performed. On time-rated shipments the receipt should show the time the vehicle left the mover's place of business and the time of return, the rate per hour and rates or charges for any accessory services. The receipt is called a freight bill or expense bill.

In the event of loss or damage to your shipment ask the driver to acknowledge the facts on the freight bill. If the driver refuses, you should have a disinterested party inspect the damage in the driver's presence and report same in writing to the mover's home office.

LOSS OR DAMAGE. All claims for loss or damage must be filed with the carrier in writing. Ask the carrier for a claim form.

Claims should be filed within nine months from date of delivery preferably as soon as possible while memories are fresh. The Washington utilities and transportation commission cannot resolve or settle claims for loss and damage. If the carrier will not voluntarily settle a claim to the customer's satisfaction, the only recourse is the filing of a suit in a court of law.

## WSR 89-06-021 ADOPTED RULES UTILITIES AND TRANSPORTATION COMMISSION

[Order R-295, Cause No. TV-2225—Filed February 23, 1989]

In the matter of amending WAC 480-12-180, 480-12-190 and 480-12-195 relating to motor carriers; WAC 480-30-095 and 480-30-100 relating to auto transportation companies; and WAC 480-70-330, 480-70-400 and 480-70-405 relating to garbage and refuse collection companies.

This action is taken pursuant to Notice No. WSR 89-02-024 filed with the code reviser on December 29, 1988. The rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended to administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 89-02-024 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, February 8, 1989, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to February 3, 1989, and orally at 9:00 a.m., Wednesday, February 8, 1989, in the commission's hearing room above noted. At the February 8, 1989, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-12-180, 480-12-190, 480-12-195, 480-30-095, 480-30-100, 480-70-330, 480-70-

400 and 480-70-405 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-12-180, 480-12-190, 480-12-195, 480-30-095, 480-30-100, 480-70-330, 480-70-400 and 480-70-405 as amended are designed to adopt latest amendments to Title 49 C.F.R., which were in effect on October 1, 1988, to adopt Title 49 C.F.R., Part 383, relating to commercial driver's license standards, to correct the telephone number to be used by auto transportation companies and garbage and refuse collection companies for reporting accidents.

### ORDER

WHEREFORE, IT IS ORDERED That WAC 480-12-180, 480-12-190, 480-12-195, 480-30-095, 480-30-100, 480-70-330, 480-70-400 and 480-70-405 as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 21st day of February, 1989.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Richard D. Casad, Commissioner  
A. J. Pardini, Commissioner

### APPENDIX "A"

#### AMENDATORY SECTION (Amending Order R-281, Cause No. TV-2119, filed 12/23/87)

**WAC 480-12-180 EQUIPMENT—DRIVERS—SAFETY.** In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.80 RCW shall comply with the following:

(1) Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto in effect on ((January 1, 1986)) October 1, 1988, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations,

as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

(3) Safety chains or other load fastening devices. Any motor truck, truck tractor, trailer, semitrailer, or any combination thereof, transporting logs upon a public highway where binder devices are required, shall have the load thereon securely fastened and protected as follows:

(a) Placement and number of wrappers required on log trucks using stakes.

(i) In the hauling of one log loads, one wrapper chain or cable shall be required and it shall be secured to the rear bunk and the log shall be properly blocked or secured in a manner which will prevent it from rolling or shifting. An additional wrapper, secured to the front bunk, is optional.

(ii) In the hauling of two log loads, not less than two wrapper chains or cables shall be used to secure the load. The logs shall be properly blocked to prevent them from rolling or shifting.

(iii) On loads consisting of three or four logs not over forty-four feet in length, the load shall be secured by not less than two properly spaced wrapper chains or cables. Ends of short logs not secured by such wrappers shall be secured with extra wrappers. If any log is over forty-four feet in length, the load shall be secured by not less than three properly spaced wrappers.

(iv) Loads consisting of five or more logs, when the logs are all seventeen feet or less in length, shall be secured by not less than two properly spaced wrappers. Loads consisting of five or more logs, when any log is over seventeen feet in length, shall be secured by not less than three properly spaced wrappers.

(b) Placement and number of wrappers required on log trucks using chock blocks.

(i) In the hauling of one log load, one wrapper chain or cable shall be required and secured to the rear bunk and the log shall be properly blocked in a manner to prevent it from rolling or shifting.

(ii) One additional wrapper chain or cable shall be required on log trucks using chock blocks over and above the requirements in subparagraphs (a)(iii) and (iv) of this subsection.

(c) Placement and number of wrappers required on crosswise loaded trucks, trailers, etc. In the case of short logs loaded crosswise, the following method of securing the load shall be used if the truck trailer is not provided with solid ends of a height sufficient to prevent any log in the load from rolling off: Not less than two chock blocks shall be used at each open end of the vehicle and the load shall be held with at least two wrapper chains or cables. The wrappers shall be firmly attached to the end of the truck or trailer. Rigid standards or stakes may be used in lieu of chock blocks but each such standard or stake shall be either rigidly connected to the bed of the truck or trailer or shall be placed in a tight fitting socket at least twelve inches in depth. Other means furnishing equivalent security may be acceptable.

(d) Wrapper placement. When two wrappers are required, they shall be applied within six feet of the front

and rear bunks. When more than two wrappers are required, the front and back binder shall be applied within six feet of the front and rear bunks.

(e) Short logs. To properly secure short logs, binders shall be placed near the end, not less than twelve inches from the end of the log.

(f) Log on top or in outside saddle. No log loaded on top or in outside saddles of a load shall be transported unless secured by not less than two wrapper chains or cables, one of which shall be placed near each end of such log.

(g) Fasten in place. All wrappers and binders shall be fastened in place prior to tightening to prevent the displacement of logs on the top of the load.

(h) Surround load. All wrapper chains or cables, except in the case of one log loads, shall entirely surround the load. This does not apply to gut-wrappers.

(i) Gut-wrappers. Gut-wrappers, when used, shall be adjusted so as to be tightened by, but not carry the weight of the logs above them.

(j) Wrappers and binders to be placed before leaving immediate loading area. Wrappers and binders shall be placed and tightened around the completed load before the truck leaves the immediate loading area.

(k) Construction of wrappers and binders. Wrapper chains or cables, binders, fasteners, or attachments thereof, used for any purpose as required by these standards, shall have a minimum breaking strength of not less than fifteen thousand pounds and shall be rigged so that it can be safely released.

(l) Bundle straps or banding. For the purposes of this standard, applied bundle straps or banding are not acceptable as wrappers and binders.

(m) Loose ends secured. All loose ends of wrapper chains or cables shall be securely fastened so as to prevent their swinging free in a manner that will create a hazard.

(n) Trucks in sorting yards. Trucks and trailers used around sorting yards, etc., which travel at slow speeds, will not be required to use wrappers providing all logs are contained by and lie below the height of the stakes and there are no persons on the ground exposed to such traffic.

(o) Binder hook design. Binders for securing wrappers on logging trucks shall be fitted with hooks of proper size and design for the wrapper chain being used.

(p) Defective wrappers. Wrappers shall be removed from service when any of the following conditions exist:

(i) Excessively worn links on chains;

(ii) Deformed or stretched chain links;

(iii) Cracked chain links;

(iv) Frayed, stranded, knotted, or otherwise defective wire rope.

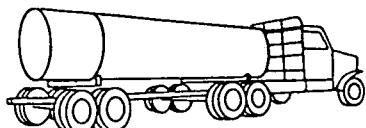
(q) Binder extensions. Pipe extension handles (swedes) for tightening or securing binders shall be limited to not longer than thirty-six inches. Care shall be taken that a sufficient amount of the pipe extends over the binder handle.

(r) Defective binders. Defective binders shall be immediately removed from service.

Note: See the following Diagrams I and II for illustrations of placement and number of load fastening devices.

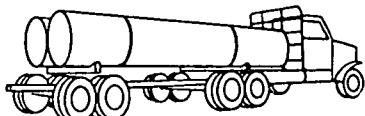
## PLACEMENT AND NUMBER OF WRAPPERS

## One log load



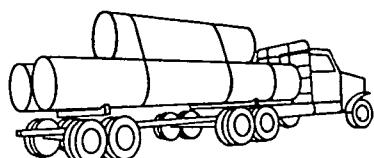
One wrapper required which shall be secured to the rear bunk. Log shall be blocked or secured in a manner to prevent it from rolling or shifting. A second wrapper secured to the front bunk is optional.

## Two log load



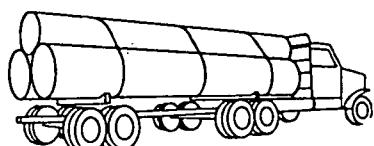
A minimum of two wrappers required. Logs shall be blocked to prevent them from rolling or shifting.

## Three or four log load forty-four feet or less

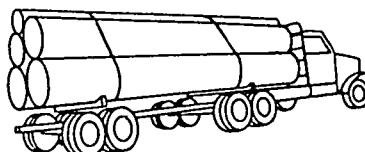


A minimum of two wrappers required.

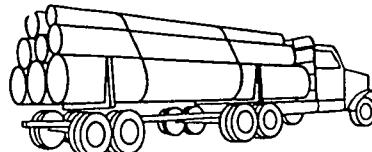
## Three or four log loads more than forty-four feet



A minimum of three wrappers required.

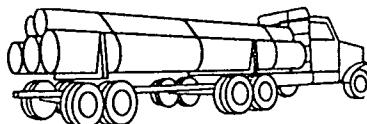
Five or six log load  
all logs seventeen feet or less

A minimum of two wrappers required.

Seven or more log load  
all logs seventeen feet or less

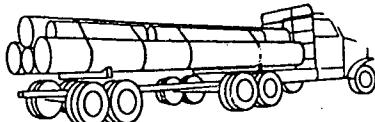
A minimum of two wrappers required.

Five or more log load  
if any logs are more than seventeen feet



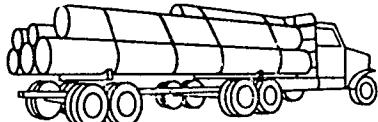
A minimum of three wrappers required.

Outside logs or top logs



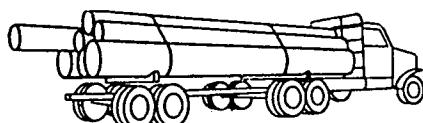
All outside or top logs shall be secured by a binder near but not within 12 inches of each end.

A wrapper shall be near each bunk



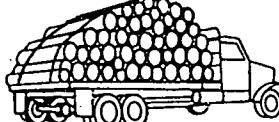
Each load shall be secured by having a wrapper within 6 feet of each bunk except on one log loads.

Proper support for logs



Not more than approximately one-third the weight of any log shall extend beyond the end of the logs or bunk supporting it.

Short logs loaded crosswise



A minimum of two wrappers are required and two chocks or stakes shall be used on the open end of the truck.

Note: All loads of logs on logging trucks equipped with chock blocks instead of stakes, shall have at least one additional wrapper over and above the requirements for trucks equipped with stakes, excepting on one and two log loads and trucks with short logs loaded crosswise.

(4) Approved load fastening devices. The following binder devices are hereby approved for purposes of transporting logs as referred to in subsection (3) of this section, provided that they meet a breaking strength of at least fifteen thousand pounds:

- (a) Three-eighths inch high-test steel chain;
- (b) One-half inch diameter steel cable; and
- (c) Steel strapping not less than two inches by fifty-one-thousandths inches in dimension.

(5) Anti-spray devices. Every vehicle shall be equipped with a device adequate to effectively reduce the wheel spray or splash of water from the roadway to the rear thereof. All such devices shall be as wide as the tires behind which they are mounted and extend downward at least to the center of the axle.

(6) Qualifications of drivers. Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 383, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.49, section 391.69, subparagraph (2) of paragraph 391.71(a),

and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto in effect on ((January 1, 1986)) October 1, 1988, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW except:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to October 20, 1979.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date October 20, 1979.

(d) Sections 391.21, 391.23, 391.25, 391.27, 391.31, 391.33, 391.35, and 391.37 shall not apply to a single vehicle owner driver when operating under its own permit.

(e) Section 391.49 shall not apply when a driver has obtained from the department of licensing the proper drivers license endorsement and restrictions (if any) for the operation of the motor vehicle the person is driving.

(7) Whenever the designation "director, bureau of motor carrier safety" is used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (6) of this section, such designation for the purpose of this rule shall mean the "Washington utilities and transportation commission," located in Olympia, Washington.

(8) Whenever the term "lightweight vehicle" is used in this section or is used in rules adopted herein by reference, such term shall mean a motor vehicle that:

(a) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or

(b) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:

(c) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

#### AMENDATORY SECTION (Amending Order R-244, Cause No. TV-1913, filed 11/7/85)

**WAC 480-12-190 HOURS OF SERVICE—ON DUTY—ADOPTION OF FEDERAL SAFETY REGULATIONS.** The rules and regulations adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations, Part 395, as well as and including all appendices and amendments thereto in effect on ((January 1, 1985)) October 1, 1988, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW, except:

(1) A driver who is driving a motor vehicle in the hauling of logs from the point of production or in dump truck operations, exclusively in intrastate commerce, shall not drive nor be permitted to drive more than twelve hours following eight consecutive hours off duty. Such driver shall not be on duty nor be permitted to be on duty more than ninety hours in any period of seven consecutive days.

(2) A driver who is driving a motor vehicle in the hauling of agricultural products from the point of production on farms, exclusively in intrastate commerce, shall not drive nor be permitted to drive more than twelve hours following eight consecutive hours off duty. Such driver shall not be on duty nor be permitted to be on duty more than ninety hours in any period of seven consecutive days.

(3) The rules and regulations governing driver's daily logs prescribed in Title 49, Code of Federal Regulations, section 395.8 and adopted in this section, do not apply to a driver who drives wholly within a radius of one hundred miles of the terminal or garage at which he or she reports for work, if the motor carrier who employs the driver maintains and retains for a period of one year accurate and true records showing the total number of hours of driving time and the time that the driver is on duty each day and the time at which the driver reports for, and is released from, duty each day. A tacograph showing the required driver hourly information may be substituted for the required records.

(4) Whenever the term "lightweight vehicle" is used in Title 49, Code of Federal Regulations, Part 395, adopted in this section, such term shall mean a motor vehicle that:

(a) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or

(b) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:

(c) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

#### AMENDATORY SECTION (Amending Order R-262, Cause No. TV-1956, filed 6/27/86)

**WAC 480-12-195 HAZARDOUS MATERIALS REGULATIONS.** (1) The rules and regulations governing hazardous materials prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, Parts 170-189, as well as and including all appendices and amendments thereto, in effect on ((January 1, 1986)) October 1, 1988, are adopted and prescribed by the commission to define hazardous materials for motor vehicle transportation purposes, and to state the precautions that must be observed in storage, packaging, loading, and unloading such materials, and in

maintaining, placarding, marking, and certifying motor vehicles and equipment used in transporting such materials, and in the maintenance of shipping papers prepared in conjunction with transporting such materials. The rules and regulations adopted and prescribed by this rule shall be observed by all common, contract, and registered carriers operating in this state.

(2) In addition to any accident reporting requirement now or hereafter prescribed by the commission, every common, contract, and registered carrier operating in this state who reports to the United States Department of Transportation any incidents occurring in this state involving hazardous materials, shall send a copy of any such report to the commission.

**AMENDATORY SECTION** (Amending Order R-197, Cause No. TC-1684, filed 2/23/83)

**WAC 480-30-095 EQUIPMENT—SAFETY.** In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.68 RCW shall comply with the following:

(1) Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1, and sections 393.13, 393.14, 393.15, 393.16, 393.76, 393.100, 393.102, 393.104, 393.106; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto in effect on ((January 1, 1983)) October 1, 1988, are adopted and prescribed by the commission to be observed by all auto transportation companies operating under chapter 81.68 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

**AMENDATORY SECTION** (Amending Order R-244, Cause No. TV-1913, filed 11/7/85)

**WAC 480-30-100 OPERATION OF MOTOR VEHICLES.** (1) All motor vehicles shall be operated in accordance with the requirements of existing state laws and no driver or operator thereof shall operate the same in any other than a careful and prudent manner, nor at any greater speed than is reasonable or proper, having due regard to the traffic and use of the highway by others, or so as to endanger the life and limb of any person.

(2) Qualifications of drivers. Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing

qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 383, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto, in effect on ((January 1, 1983)) October 1, 1988, are adopted and prescribed by the commission to be observed by all auto transportation companies or excursion service companies operating under chapter 81.68 RCW except:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(3) No driver or operator of a motor vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance in such vehicle during the time he is driving the vehicle.

(4) No driver or operator of a motor vehicle shall create any disturbance or unnecessary noise to attract persons to the vehicle.

(5) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 395, as well as and including all appendices and amendments thereto in effect on ((January 1, 1985)) October 1, 1988, are adopted and prescribed by the commission to be observed by all auto transportation companies or excursion service companies operating under chapter 81.68 RCW((, except that the radius distance identified in paragraph (f) of section 395.8 shall be one hundred miles)).

(6) No driver or operator of any motor vehicle used in the transportation of passengers shall refuse to carry any person offering himself or herself at a regular stopping place for carriage and who tenders the regular fare to any stopping place on the route of said motor vehicle, or between the termini thereof, if allowed to carry passengers to such point under the certificate for such route: PROVIDED, HOWEVER, That the driver or operator of such motor vehicle may refuse transportation to any person who is in an intoxicated condition or conducting himself in a boisterous or disorderly manner or is using profane language, who is suffering from a contagious disease, or whose condition is such as to be obnoxious to passengers on such motor vehicle. A driver is responsible for the comfort, safety and peace of mind of his passengers to the extent that he should be constantly on the alert for and immediately correct any act of misconduct on the part of occupants of the vehicle.

(7) No auto transportation company or excursion service company operating any motor vehicle used in the transportation of persons, shall permit smoking on said

vehicle either by passengers or other persons while present in said motor vehicle.

Auto transportation companies and excursion service companies shall place suitable signs in buses, of sufficient size and number to adequately inform passengers that smoking is not permitted in the motor vehicle.

(8) No motor vehicle used in the transportation of persons shall carry more persons than one hundred fifty percent of its rated carrying capacity but no paying passenger shall be required to stand for a distance in excess of twenty miles. The commission may amend, rescind or grant exceptions to this rule in the event of emergency.

(9) The front seat of all passenger carrying vehicles, if connected with the driver's seat, shall be considered as an emergency seat and no passenger will be allowed to occupy the same unless all of the other seats of such vehicle are fully occupied. In no case shall more than one passenger be allowed to occupy the front seat of any motor vehicle unless such seat is forty-eight or more inches in width in the clear. No passenger shall be allowed to sit in the front seat to the left of the driver.

(10) No motor vehicle used for the transportation of passengers shall carry or transport any baggage, trunk, crate or other load which shall extend beyond the running board of said motor vehicle on the left side.

(11) Except when specially authorized by the commission, no motor vehicle used in the transportation of passengers shall be operated or driven with any trailer or other vehicle attached thereto; except in case a vehicle becomes disabled while on a trip and is unable to be operated by its own power, such disabled vehicle may be towed without passengers to the nearest point where repair facilities are available. No right-hand drive vehicle shall be used except by special authorization of the commission and then only when equipped as directed by it.

(12) Accidents occurring in this state arising from or in connection with the operations of any auto transportation company or excursion service company operating under chapter 81.68 RCW resulting in an injury to any person, or the death of any person shall be reported by such carrier to the commission as soon as possible, but in no event later than twelve hours after the occurrence of the accident. The occurrence of such accidents shall be reported to the commission by telephone at the following numbers: 1-800-562-6150; or if the call is made from out of the state: ((1-206-753-6411)) 1-206-586-1119. Copies of written reports of all accidents, including those described in this section, shall be maintained in the main office of the carrier subject to inspection by the commission.

(13) Auto transportation companies or excursion service companies transporting passengers shall maintain such comfort stations in a clean and sanitary condition along its line or route, and shall make such regular stops thereat as shall be necessary to care properly for the comfort of its patrons.

(14) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations,

as described in subsections (2) and (5) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

#### AMENDATORY SECTION (Amending Order R-244, Cause No. TV-1913, filed 11/7/85)

WAC 480-70-330 DRIVERS, HOURS OF WORK. (1) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations, Part 395, as well as and including all appendices and amendments thereto in effect on ((January 1, 1985)) October 1, 1988, are adopted and prescribed by the commission to be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

#### AMENDATORY SECTION (Amending Order R-194, Cause No. TG-1686, filed 2/23/83)

WAC 480-70-400 EQUIPMENT—SAFETY. (1) All motor vehicles operated under authority of chapter 81.77 RCW, as amended, shall be maintained in a safe and sanitary condition. They shall at all times be subject to inspection by the commission and its duly authorized representatives, inspection stations, or the state patrol, who shall have power to order out of service any vehicle which in their judgment is unsafe or not being operated in compliance with the state laws in regard to equipment or method.

(2) Failure of any certificate holder to obey and comply with all motor vehicle safety laws of the state of Washington shall be grounds for cancellation of certificate.

(3) In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.77 RCW shall comply with the following:

(a) The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 383, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1, and sections 393.16, 393.17, 393.76, 393.100, 393.102, 393.104, 393.106; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto in effect on ((January 1, 1983)) October 1, 1988, are adopted and prescribed by the commission to be observed by all garbage and/or

refuse collection companies operating under chapter 81-77 RCW.

(b) The rules and regulations governing hazardous materials prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, parts 170-189, as well as and including all appendices and amendments thereto, in effect on January 1, 1983, are adopted and prescribed by the commission to define hazardous materials for motor vehicle transportation purposes, and to state the precautions that must be observed in storage, packaging, loading, and unloading such materials, and in maintaining, placarding, marking, and certifying motor vehicles and equipment used in transporting such materials, and in the maintenance of shipping papers prepared in conjunction with transporting such materials. The rules and regulations adopted and prescribed by this rule shall be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW.

(c) In addition to any accident reporting requirement now or hereafter prescribed by the commission, every garbage and/or refuse collection company operating under chapter 81.77 RCW who reports to the United States Department of Transportation any incidents occurring in this state involving hazardous materials, shall send a copy of any such report to the commission.

(d) Qualifications of drivers. Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 383, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto, in effect on ((January 1, 1983)) October 1, 1988, are adopted and prescribed by the commission to be observed by all garbage and/or refuse collection companies operating under chapter 81.77 RCW except:

(i) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(ii) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(iii) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(iv) Section 391.21, 391.23, 391.25, 391.27, 391.31, 391.33, 391.35, and 391.37 shall not apply to a single vehicle owner driver when operating under its own permit.

(e) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations,

as described in subsection (3) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

(f) Whenever the term "lightweight vehicle" is used in Title 49, Code of Federal Regulations, part 391 and part 395, adopted in this section, such term shall mean a motor vehicle that:

(i) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or

(ii) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:

(iii) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

#### AMENDATORY SECTION (Amending Order R-145, Cause No. TG-1357, filed 8/7/80)

**WAC 480-70-405 ACCIDENT REPORTING. (1)**  
Accidents occurring in this state arising from or in connection with the operations of any garbage and/or refuse company operating under chapter 81.77 RCW, resulting in an injury to any person, the death of any person, or involving a motor vehicle carrying hazardous materials and required to be placarded, shall be reported by such carrier to the commission as soon as possible, but in no event later than twelve hours after the occurrence of the accident. The occurrence of such accidents shall be reported to the commission by telephone at the following number: 1-800-562-6150; or if the call is made from out of the state: ((1-206-753-6411)) 1-206-586-1119.

(2) Copies of written reports of all accidents, including those accidents described in subsection (1) of this section, shall be maintained in the main office of the carrier subject to inspection by the commission.

#### **WSR 89-06-022 ATTORNEY GENERAL OPINION Cite as: AGO 1989 No. 3 [February 15, 1989]**

#### **LEOFF—VACATION—LONGEVITY PAY—RETIREMENT**

- Where a LEOFF member after a period of temporary disability retirement returns to active duty, the member's employer is not required under RCW 41.26.140 to grant longevity pay, vacation accrual or similar benefits to the member to the same extent such benefits would be available to another employee of the same rank who had been continuously employed with no period of disability retirement.
- The term "current salary" as used in RCW 41.26.140(2) may or may not include "longevity

pay", depending on the type of "longevity pay" used by a particular LEOFF employer.

3. RCW 41.26.140 does not restrict LEOFF employers from adopting policies or entering into collective bargaining agreements regarding longevity pay and vacation accrual, so long as the policies or collective bargaining agreements are consistent with the requirements of the statute.

Requested by:

The Honorable Phil Talmadge  
State Senator, 34th District  
1725 SW Roxbury #5  
Seattle, WA 98106

**WSR 89-06-023**  
**PROPOSED RULES**  
**SPOKANE COMMUNITY COLLEGES**

[Filed February 24, 1989]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Washington Community College District 17 intends to adopt, amend, or repeal rules concerning smoking;

that the institution will at 1:30 p.m., Tuesday, March 14, 1989, in the Board Room, North 2000 Greene Street, Spokane, WA 99207, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before March 7, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-04-018 filed with the code reviser's office on January 23, 1989.

Dated: February 15, 1989  
By: Terrance R. Brown  
Chief Executive Officer

**WSR 89-06-024**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**

[Filed February 24, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning Sick leave—Reporting—Payment, amending WAC 356-18-070;

that the agency will at 10:00 a.m., Thursday, April 13, 1989, in the Board Hearings Room, Department of Personnel, 521 South Capitol Way, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 11, 1989.

Dated: February 17, 1989

By: Robert Boysen  
Acting Director

**STATEMENT OF PURPOSE**

Title: Amending WAC 356-18-070 Sick leave—Reporting—Payment.

Purpose: Establishes the reasons in which an agency may request a medical certificate from an employee for sick leave use.

Statutory Authority: RCW 41.06.150(8).

Summary: This proposal would add language that states that a medical certificate may be required in accordance with WAC 356-35-010 if it is believed that a disability may exist.

Reasons: The revision would allow management the needed flexibility to determine whether an employee has a bona fide disability before invoking WAC 356-35-010. This has been an increasing problem for the Department of Corrections. Often several months pass before the disability provisions outlined under WAC 356-35-010 are used.

Responsibility for Drafting: Linda Evans, Department of Corrections, P.O. Box 9699, FN-61, Olympia, WA 985074 [98507], phone (206) 753-0326; Implementation and Enforcement: Department of Personnel.

Agency or Organization Submitting Proposal: Department of Corrections, governmental agency.

Comments or Recommendations: [No information supplied by agency.]

Rule Proposal a Result of Federal Law, or Federal or State Court Action: No.

**AMENDATORY SECTION (Amending Order 207, filed 6/22/84)**

WAC 356-18-070 SICK LEAVE—REPORTING—PAYMENT. (1) Sick leave shall be reported at the beginning of the absence and in accordance with agency procedure.

(2) Upon returning to work the employee shall report the general reason or circumstance for the sick leave as found in WAC 356-18-060 (1) through (6). A medical certificate may be required when there is cause to suspect sick leave abuse; to assist agencies in protecting the employees from returning to work too soon following an illness or injury; or to protect fellow employees or clients from contagious illness. A medical certificate must be required if the reason was personal illness as cited in WAC 356-18-060 (1)(a), (b), or (c), and continued for more than ten continuous work days. A medical certificate may be required in accordance with WAC 356-35-010 if it is believed that a disability may exist.

(3) Sick leave shall be charged on an hourly basis.

(4) The accounting procedures established by the office of financial management prescribe the payments of sick leave for the reasons found in WAC 356-18-060(1) so as to exclude the payments from the meaning of "wages" under the Federal Old Age and Survivors Insurance.

**WSR 89-06-025**  
**ADOPTED RULES**  
**ATTORNEY GENERAL'S OFFICE**  
[Order 89-1—Filed February 24, 1989]

I, Kenneth O. Eikenberry, Attorney General of Washington, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

New WAC 44-10-300 Imposition of fine for manufacturer non-compliance with an arbitration decision.  
New WAC 44-10-310 Request for review of imposition of fine.  
New WAC 44-10-320 Failure by manufacturer to pay a fine.

This action is taken pursuant to Notice No. WSR 88-22-055 filed with the code reviser on November 1, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 19.118-.061 and 19.118.080 which directs that the Washington State Attorney General's Office has authority to implement the provisions of chapter 19.118 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 24, 1989.  
By Kenneth O. Eikenberry  
Attorney General

**NEW SECTION**

**WAC 44-10-300 IMPOSITION OF FINE FOR MANUFACTURER NONCOMPLIANCE WITH AN ARBITRATION DECISION** (1) Pursuant to RCW 19.118.090, the Attorney General shall impose a fine against a manufacturer if, after forty (40) calendar days from the manufacturer's receipt of Notice of Consumer's Acceptance of an arbitration decision, the manufacturer has not complied with the decision. Notice of the imposition of fine shall be to the manufacturer by certified mail or personal service.

(2) The Attorney General shall impose a fine against the manufacturer for noncompliance according to the following schedule for each day after the forty (40) day calendar period:

|                          |                   |
|--------------------------|-------------------|
| DAYS 1 THROUGH 10 .....  | \$ 300.00 PER DAY |
| DAYS 11 THROUGH 20 ..... | \$ 500.00 PER DAY |
| DAYS 21 THROUGH 30 ..... | \$ 700.00 PER DAY |
| DAYS 31 AND ON.....      | \$1000.00 PER DAY |

The foregoing fines shall accrue until the manufacturer complies or until one hundred thousand (100,000) dollars has accrued, whichever occurs first.

**NEW SECTION**

**WAC 44-10-310 REQUEST FOR REVIEW OF IMPOSITION OF FINE** (1) The manufacturer shall have ten (10) days from the date of receipt of Notice of Imposition of Fine to request a review of imposition of

fine by the Attorney General. The manufacturer's request for review of imposition of fine shall be in writing and shall state the reasons for the manufacturer's non-compliance with the arbitrator's decision within the forty (40) calendar day period.

(2) Upon receipt of a request for review of imposition of fine, the Attorney General shall have ten (10) days to conduct a review.

(3) The review shall be limited to determining whether the manufacturer has shown by clear and convincing evidence that any delay or failure of the manufacturer to comply within forty (40) calendar days following the manufacturer's receipt of Notice of Consumer's Acceptance was beyond the manufacturer's control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. No other issues shall be considered in the review.

(4) The Attorney General shall issue a written review determination which shall be delivered to the manufacturer by certified mail or personal service.

(5) If the Attorney General determines that the manufacturer's noncompliance was beyond the manufacturer's control or was acceptable to the consumer as evidenced by a written statement from the consumer, the imposition of fine shall be rescinded. The imposition of fine shall be affirmed by the Attorney General where the manufacturer has failed to show clear and convincing evidence as required by WAC 44-10-310(3). If the imposition of fine is affirmed, the manufacturer shall be liable for a fine according to the schedule specified in WAC 44-10-300(2) including all days during the pendency of review under this section and until compliance with the arbitrator's decision or until one hundred thousand (100,000) dollars has accrued, whichever comes first.

(6) If a fine is rescinded under WAC 44-10-310 the Attorney General shall impose a fine against a manufacturer where a manufacturer fails to comply with the agreement between the manufacturer and the consumer, or when the manufacturer fails to comply immediately after the circumstances no longer exist which made compliance beyond the control of the manufacturer. Notice of such fine shall be by certified mail or personnel service to the manufacturer and shall be imposed according to the schedule in WAC 44-10-300(2), and imposition of such fine may be appealed by the manufacturer under WAC 44-10-310.

(7) The imposition of a fine by the Attorney General under this section may be appealed by the manufacturer to superior court.

**NEW SECTION**

**WAC 44-10-320 FAILURE BY THE MANUFACTURER TO PAY A FINE** If the manufacturer fails to pay a fine imposed under this section, the Attorney General shall initiate proceedings in superior court against the manufacturer to compel payment of such fine.

**WSR 89-06-026**  
**ADOPTED RULES**  
**ATTORNEY GENERAL'S OFFICE**  
[Order 89-2—Filed February 24, 1989]

I, Kenneth O. Eikenberry, Attorney General of Washington, do promulgate and adopt at Olympia, Washington, the annexed rules relating to withdrawal, amending WAC 44-10-120.

This action is taken pursuant to Notice No. WSR 89-01-020 filed with the code reviser on December 12, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 19.118-.080 which directs that the Attorney General's Office has authority to implement the provisions of chapter 19.118 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** February 24, 1989.

By Kenneth O. Eikenberry  
Attorney General

**AMENDATORY SECTION** (Amending Order 87-4, filed 12/22/87)

**WAC 44-10-120 WITHDRAWAL.** ((~~(t)~~)) A consumer may withdraw a request for arbitration at any time((;)).

((~~(a)~~)) A withdrawal ((requested at least three business days prior to the scheduled hearing)) shall be granted without prejudice, although upon withdrawal, the thirty month statute of limitations shall resume running. A consumer who has withdrawn may resubmit the claim for arbitration. However, if the consumer withdraws the second request, the withdrawal shall be considered a withdrawal with prejudice((, with the same effect as a withdrawal under WAC 44-10-120 (1)(b)).

((~~(b)~~)) A withdrawal requested less than three business days prior to the scheduled hearing shall be granted with prejudice)) and the consumer shall not be allowed to resubmit the claim for arbitration.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 89-06-027**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE CENTER**  
[Memorandum—February 22, 1989]

The Board of Directors of the Washington State Convention and Trade Center will meet on Wednesday, March 1, 1989, at 3:00 p.m. in Room 601 of the Convention and Trade Center, 800 Convention Place, Seattle.

The Design Committee of the Washington State Convention and Trade Center will meet on Wednesday, March 1, 1989, at 11:30 a.m. in Room 601 of the Convention and Trade Center, 800 Convention Place, Seattle.

The Art Committee of the Washington State Convention and Trade Center will meet on Wednesday, March 1, 1989, at 10:30 a.m. in Room 601 of the Washington State Convention and Trade Center, 800 Convention Place, Seattle.

If you have questions about these meetings, please call Peggy Flynn at 447-5000.

**WSR 89-06-028**  
**ADOPTED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**

[Order 314—Filed February 24, 1989—Eff. April 1, 1989]

Be it resolved by the State Personnel Board, acting at 521 South Capitol Way, Department of Personnel, Olympia, WA, that it does adopt the annexed rules relating to:

|     |                |   |
|-----|----------------|---|
| New | WAC 356-05-238 | Pay status.   |
| Amd | WAC 356-18-020 | Holidays.   |
| Amd | WAC 356-18-025 | Holidays—Selected personal holiday—Regulations governing.                 |
| Amd | WAC 356-18-030 | Holidays—Rules—Regulations governing.                                     |
| Amd | WAC 356-18-040 | Holidays—During leave without pay.  |
| Amd | WAC 356-18-050 | Sick leave credit—Purpose—Accrual—Conversion.                             |
| Amd | WAC 356-18-060 | Paid sick leave—Use.  |
| Amd | WAC 356-18-070 | Sick leave—Reporting—Payment.   |
| Amd | WAC 356-18-080 | Leave—Worker's compensation.  |
| Amd | WAC 356-18-090 | Vacation leave—Accrual.   |
| Amd | WAC 356-18-110 | Vacation leave—Allowance.   |
| Amd | WAC 356-18-116 | Leave due to unforeseen child care requirements.                          |
| Amd | WAC 356-18-140 | Leave without pay.  |
| Amd | WAC 356-18-150 | Leave—Newborn or adoptive child care—Provision.                           |
| Amd | WAC 356-18-160 | Military leave—Reemployment.  |
| Amd | WAC 356-18-220 | Leave without pay—Effect on anniversary date and periodic increment date. |
| Rep | WAC 356-18-180 | Returning employee rights.  |

This action is taken pursuant to Notice No. WSR 89-03-056 filed with the code reviser on January 17, 1989. These rules shall take effect at a later date, such date being April 1, 1989.

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** February 9, 1989.  
By Robert Boysen  
Acting Director

**NEW SECTION**

**WAC 356-05-238 PAY STATUS.** For purposes of leave accrual and holiday eligibility, periods of work or paid leave time which qualify an employee for wages.

**AMENDATORY SECTION** (Amending Order 228, filed 7/15/85)

**WAC 356-18-020 HOLIDAYS.** (1) Legal holidays are designated by statute. The following are legal holidays as established by RCW 1.16.050:

|  |                             |
|--|-----------------------------|
| Sunday   |                             |
| New Year's Day                                 | January 1                   |
| Martin Luther King Jr.'s Birthday              | Third Monday in January     |
| Presidents' Day                                | Third Monday in February    |
| Memorial Day                                   | Last Monday of May          |
| Independence Day                               | July 4                      |
| Labor Day                                      | First Monday in September   |
| Veteran's Day                                  | November 11                 |
| Thanksgiving Day                               | Fourth Thursday in November |
| The day immediately following Thanksgiving Day |                             |
| Christmas Day                                  | December 25                 |

(2) For purposes of this chapter Sunday is not considered a holiday unless specifically identified in the rules.

(3) Employees, except hourly rated faculty employees and those employees employed on the basis of contracts for a specified number of work days or faculty appointments, may select another day each calendar year on which to take an additional holiday as provided in WAC 356-18-025.

**AMENDATORY SECTION** (Amending Order 87, filed 5/4/76)

**WAC 356-18-025 HOLIDAYS—SELECTED PERSONAL HOLIDAY—REGULATIONS GOVERNING.** (1) An employee may select one workday as a personal holiday each calendar year((, as referred to in WAC 356-18-020 and the agency must grant the day)) provided:

(a) The employee has been ((or is scheduled to be)) continuously employed by the state for more than four months, or is scheduled to be continuously employed by the state for more than four months, and

(b) The employee who is scheduled to work less than six continuous months over a period covering two calendar years shall receive only one personal holiday during this period.

(2) The agency shall release the employee from work on the day selected as the personal holiday provided:

(a) The employee has given not less than ((+4)) fourteen calendar days' written notice to the supervisor, provided, however, the employee and the supervisor may agree upon an earlier date, and

((+t))) (b) The number of employees selecting a particular day off does not prevent an agency from providing continued public service.

((+2))) (3) The personal holiday must be taken during the calendar year or entitlement to the day will lapse, except that the entitlement shall carry over to the following year when an otherwise qualified employee has

requested a personal holiday and the request has been denied.

((+3))) (4) Agencies may also establish qualifying policies for determining which of the requests for a particular day will or will not be granted when the number of requests for a personal holiday would impair operational necessity.

(5) Part-time employees who were employed during the month in which the personal holiday is taken will be compensated for the personal holiday in an amount proportionate to the time in pay status during the month to that required for full-time employment.

(6) A personal holiday for full-time employees shall be equivalent to their workshift on that day.

**AMENDATORY SECTION** (Amending Order 299, filed 5/13/88)

**WAC 356-18-030 HOLIDAYS—RULES—REGULATIONS GOVERNING.** (1) The holidays cited in WAC 356-18-020 ((except Sundays)) are paid nonworking days for eligible employees.

(2) When operational necessity requires that employees work on ((a)) any holiday ((except Sundays)), they shall be compensated in accordance with the applicable provisions of the compensation plan appendix and chapter 356-15 WAC.

(3) For full-time employees on a Monday through Friday work schedule:

(a) Whenever any legal holiday falls on a Saturday, the preceding Friday shall be the holiday. Whenever any legal holiday((, other than a Sunday,)) falls on a Sunday, the following Monday shall be the holiday.

(4) For full-time employees not on a Monday through Friday work schedule:

(a) When a holiday ((other than Sunday)) as identified in WAC 356-18-020(1) falls on the employee's scheduled work day, that day will be considered the holiday.

(b) When a holiday ((other than Sunday)) as identified in WAC 356-18-020(1) falls on the employee's scheduled day off, agencies shall, with respect to each individual employee, treat either the last preceding or the next following work day as the holiday.

(5) For employees working a night shift schedule which begins on one calendar day and ends on the next, the ((24)) twenty-four-hour "paid holiday" shall be determined by the agency to commence either at the start of the scheduled night shift that begins on the calendar holiday, or at the start of the shift that precedes the calendar holiday. The determination shall be consistent for all employees in a facility unless there is agreement between the agency and one or more affected employees to do otherwise. Agreement by the exclusive representative shall constitute agreement of the employees.

(6) Part-time employees who were ((on the payroll)) employed before and after the holiday and for a period of at least twelve calendar days during the month (but not including the holiday) will be compensated in cash, compensatory time, or exchange time for the holiday in ((a)) an amount proportionate ((amount of)) to the time ((actually worked)) in pay status during the month to that required for full-time employment.

AMENDATORY SECTION (Amending Order 120, filed 5/12/78)

WAC 356-18-040 HOLIDAYS—DURING LEAVE WITHOUT PAY. ((An)) A full-time employee who would otherwise be entitled to a holiday but is on leave without pay will receive compensation for the holiday provided he/she has been in pay status for ((ten working days)) eighty nonovertime or nonstandby hours during the month, not counting the holiday. Compensation for holidays for other than full-time employees during leave without pay will be proportionate to the time in pay status required for full-time employment. The employee must be employed before and after the holiday and for a period of at least twelve calendar days during the month in addition to the holiday.

AMENDATORY SECTION (Amending Order 266, filed 12/18/86, effective 2/1/87)

WAC 356-18-050 SICK LEAVE CREDIT—PURPOSE—ACCUMAL—CONVERSION. (1) Sick leave credits are granted as a form of insurance to minimize loss of compensation to employees due solely to reasons specified in WAC 356-18-060.

(2) Eight hours of sick leave credit shall be granted for each month in which a full-time employee is in pay status for ((+5)) fifteen or more calendar days or eighty nonovertime or nonstandby hours during the month. Sick leave credit for other than full-time employees ((whose payroll hours are less than forty hours a week)) shall be computed and accrued ((at the ratio of payroll hours to payroll hours)) in an amount proportionate to the time the employee is in pay status during the month to that required for full-time employment.

(3) Employees shall be eligible to receive monetary compensation for accrued sick leave as follows:

(a) In January of each year, and at no other time, an employee whose sick leave balance at the end of the previous year exceeds ((480)) four hundred eighty hours may elect to convert the sick leave hours earned in the previous calendar year, minus those hours used during the year, to monetary compensation.

(i) No sick leave hours may be converted which would reduce the calendar year-end balance below ((480)) four hundred eighty hours.

(ii) Monetary compensation for converted hours shall be paid at the rate of ((25%)) twenty-five percent and shall be based upon the employee's current salary.

(iii) All converted hours will be deducted from the employee's sick leave balance.

(b) Employees who separate from state service on or after September 1, 1979, due to retirement or death shall be compensated for their total unused sick leave accumulation at the rate of ((25%)) twenty-five percent. Compensation shall be based upon the employee's salary at the time of separation. For the purpose of this subsection, retirement shall not include "vested out-of-service" employees who leave funds on deposit with the department of retirement systems (DRS).

(c) No contributions are to be made to the department of retirement systems (DRS) for such payments in

(a) or (b) ((above)) of this subsection, nor shall such payments be reported to DRS as compensation.

(4) Employees who separate for any reason other than retirement or death shall not be paid for their accrued sick leave.

(5) Former employees who are again employed within five years of their separation from service shall be granted all unused sick leave credits, if any, to which they were entitled at time of separation for the purpose of using sick leave for the reasons prescribed in WAC 356-18-060. Upon any subsequent retirement or death of a reemployed retiree, only that unused sick leave accrued since the original retirement minus that taken within the same period may be compensated per the conversion provisions of WAC 356-18-050 (3)(b).

(6) Employees coming under the jurisdiction of the state personnel board from the jurisdiction of the higher education personnel board by the provisions of WAC 356-49-040 shall be credited with their sick leave accumulated with the higher education system.

AMENDATORY SECTION (Amending Order 263, filed 11/25/86, effective 1/1/87)

WAC 356-18-060 PAID SICK LEAVE—USE.

(1) Personal illness: Accumulated sick leave shall be granted when an employee is required to be absent from work for any of the following reasons:

(a) Illness or injury of the employee or for preventative health care.

(b) Exposure of the employee to contagious disease when attendance at work would jeopardize the health of others.

(c) Disability of the employee due to pregnancy or childbirth.

(2) Illness of children: Accumulated sick leave shall be granted when an employee is required to be absent from work to provide care to a child under the age of eighteen with a health condition requiring treatment or supervision. For the purpose of this subsection, "children" shall be limited to the son or daughter of the employee or the employee's spouse.

(3) Illness of relatives or household members: Up to five days of accumulated sick leave shall be granted ((up to five days)) for each occurrence or as extended by the agency when an employee is required to be absent from work ((for any of the following reasons)) to provide care to members of the employee's household or relatives of the employee or the employee's spouse who experience an illness or injury. For purposes of this subsection, "relatives" shall be limited to:

(a) ((Health, injury or preventative health care of members of the employee's household or relatives of the employee that requires the employee's attendance.

(b) For purposes of the provisions of subsection (2)(a) of this section, "relatives" shall include:

((i))) Spouse.

((ii))) (b) Son((;)) or daughter, eighteen years of age or over, grandchild, or foster child.

((iii))) (c) Grandparent or parent.

((iv))) (4) Preventative health care of relatives or household members: Up to one day of sick leave shall be

granted for each occurrence or as extended by the agency when an employee is required to be absent to provide care or transportation for a relative of the employee or the employee's spouse or for a member of the employee's household obtaining preventative health care. For the purposes of this subsection "relatives" shall be limited to:

- (a) Spouse.
- (b) Son, daughter, grandchild, or foster child.
- (c) Grandparent or parent.

((2)) (3), (4), and ((3)) (6)(a) of this section:

Members of household means "persons who reside in same home, who have reciprocal and natural and/or moral duties to and do provide support for one another. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune."

((3)) (6) Bereavement: Accumulated sick leave shall be granted up to three days for each occurrence or as extended by the agency for reasons of travel when an employee is required to be absent from work for any of the following reasons:

- (a) Death of members of the employee's household or relatives of the employee or the employee's spouse.
- (b) For purposes of the provisions of subsection ((3)) (6)(a) of this section, "relatives" shall ((include)) be limited to:
  - (i) Spouse.
  - (ii) Son, daughter, grandchild, foster child, son-in-law, or daughter-in-law.
  - (iii) Grandparent, parent, brother, sister, niece, nephew, aunt, uncle, first cousin, brother-in-law, or sister-in-law.

((4)) (7) Inclement weather: Up to three days of accumulated sick leave shall be granted when the employee is unable to report for scheduled work because of severe inclement weather. (Such use of sick leave shall be limited to three days in any calendar year and shall be used only as specified in WAC 356-18-115.)

((5)) (8) In addition to the reasons listed above, ((emergency care of)) unforeseen child care requirements for the employee's son, daughter, stepchild, or a child in the custody of and residing in the home of the employee. (Such use of sick leave shall normally be limited to a maximum of one day per incident, and to three days in any calendar year, unless extended by the appointing authority, and shall be used only as specified in WAC 356-18-116.)

((6)) (9) When a condition listed under subsection (1)(a) or (c) of this section arises while the employee is on vacation leave, the employee shall be granted accrued sick leave as provided above for the condition (in lieu of the approved vacation leave) provided that the employee requests such sick leave within fourteen days after return to work. Such conversion rights shall not extend to vacation leave taken prior to an employee's separation as provided in WAC 356-18-100(2).

#### AMENDATORY SECTION (Amending Order 207, filed 6/22/84)

**WAC 356-18-070 SICK LEAVE—REPORTING—PAYMENT.** (1) Sick leave shall be reported at the beginning of the absence and in accordance with agency procedure.

(2) Upon returning to work the employee shall report the general reason or circumstance for the sick leave as found in WAC 356-18-060 (1) through (6). A medical certificate may be required when there is cause to suspect sick leave abuse; to assist agencies in protecting the employees from returning to work too soon following an illness or injury; or to protect fellow employees or clients from contagious illness. A medical certificate must be required if the reason was personal illness as cited in WAC 356-18-060 (1)(a), (b), or (c), and continued for more than ten continuous work days.

(3) Sick leave shall be charged ((on an hourly basis)) in half-hour increments or in smaller increments as set by the employing agency.

(4) The accounting procedures established by the office of financial management prescribe the payments of sick leave for the reasons found in WAC 356-18-060(1) so as to exclude the payments from the meaning of "wages" under the Federal Old Age and Survivors Insurance.

#### AMENDATORY SECTION (Amending Order 224, filed 6/24/85)

**WAC 356-18-080 LEAVE—WORKER'S COMPENSATION.** (1) Employees who suffer a work related injury or illness (occupational disease) shall file an application for worker's compensation in accordance with chapter 51.28 RCW.

(2) Employees who suffer a work related injury or illness and are unable to work due to such injury or illness may elect to receive time loss compensation exclusively, leave payment exclusively or a combination of time loss compensation and paid leave. The employing agency shall make such options known to the employee.

(3) Employees who elect to use sick leave during a period in which they receive worker's time loss compensation under the industrial insurance provisions for a work related illness or injury shall receive full sick leave pay, less any industrial insurance payments for time loss during the sick leave period.

(a) Until eligibility for worker's compensation is determined by the department of labor and industries, the employee may elect to use accrued sick leave, provided that the employee shall return any subsequent overpayment to the agency.

(b) Sick leave hours charged to an employee who receives worker's compensation as a result of the time loss shall be proportionate to that portion of the employee's salary paid by the agency during the claim period.

(4) When an employee elects to receive pay for vacation leave, compensatory time off or exchange time and also receives worker's compensation for time loss, the employee is entitled to both payments without any deductions for the time loss payment except for employees

of the departments of social and health services, corrections and veterans affairs who miss work due to an assault that occurred on the job and are receiving compensation in an amount equal to full pay, as provided in chapters 72.01 and 72.09 RCW. Pay for vacation leave, compensatory time off or exchange time to such employees shall be limited to an amount equal to the amount of their worker's compensation for time loss.

(5) When an employee receives pay for a holiday and also receives worker's compensation for time loss, the employee is entitled to both payments without any deductions for the time loss payment.

(6) Should an employee apply for time loss compensation and the claim is then or later denied, accrued leave may be used for the absence.

#### AMENDATORY SECTION (Amending Order 264, filed 11/21/86, effective 1/1/87)

WAC 356-18-090 VACATION LEAVE—ACCRUAL. (1) Full-time employees who were in pay status for ((+5)) fifteen or more calendar days or eighty nonovertime or nonstandby hours during the month including holidays shall be credited one accrual monthly with the following rates of vacation leave for each year of employment. ((Part-time, intermittent, hourly or seasonal employees whose payroll hours are usually less than 40 hours a week shall be credited with vacation leave hours at the respective ratio of payroll hours to the payroll hours requirement)) Vacation leave credit for other than full-time employees shall be computed and accrued in an amount proportionate to the time the employee is in pay status during the month to that required for full-time employment.

(a) During the first year of current continuous employment — ((+6)) Ninety-six hours ((+2)) twelve days) per annum.

(b) During the second year of current continuous employment — ((+104)) One hundred four hours ((+3)) thirteen days) per annum.

(c) During the third and fourth years of current continuous employment — ((+12)) One hundred twelve hours ((+4)) fourteen days) per annum.

(d) During the fifth, sixth, and seventh years of current continuous employment — ((+20)) One hundred twenty hours ((+5)) fifteen days) per annum.

(e) During the eighth, ninth, and tenth total years of employment — ((+28)) One hundred twenty-eight hours ((+6)) sixteen days) per annum.

(f) During the eleventh year of total employment — ((+36)) One hundred thirty-six hours ((+7)) seventeen days) per annum.

(g) During the twelfth year of total employment — ((+44)) One hundred forty-four hours ((+8)) eighteen days) per annum.

(h) During the thirteenth year of total employment — ((+52)) One hundred fifty-two hours ((+9)) nineteen days) per annum.

(i) During the fourteenth year of total employment — ((+60)) One hundred sixty hours ((+10)) twenty days) per annum.

(j) During the fifteenth year of total employment — ((+68)) One hundred sixty-eight hours ((+11)) twenty-one days) per annum.

(k) During the sixteenth year of total employment and after — ((+76)) One hundred seventy-six hours ((+12)) twenty-two days) per annum.

(2) Vacation leave is cumulative to a maximum of ((240)) two hundred forty hours ((30)) thirty working days) unless the employee's request for leave is deferred by the agency and a statement of necessity filed with the director of personnel. Such deferred leave may be credited in excess of the ((30)) thirty-day maximum until such leave is granted by the employing agency.

#### AMENDATORY SECTION (Amending Order 152, filed 3/13/81)

WAC 356-18-110 VACATION LEAVE—ALLOWANCE. (1) Full-time employees shall not use or be compensated for vacation leave credits until completion of six months continuous state service. Employees whose payroll hours are usually less than 40 hours a week shall not use nor be compensated for vacation leave credits until completion of twelve continuous months of ((regularly scheduled)) state service ((with state government)).

(2) All requests for vacation leave shall be in writing and must be approved in advance of the effective date unless used in lieu of sick leave or ((for emergency)) to respond to unforeseen child care requirements, or the supervisor chooses to approve the vacation leave on a retrospective basis.

(3) ((In granting)) Vacation leave shall be charged in half-hour increments or in smaller increments as set by the employing agency.

(4) When considering requests for vacation leave the employing agency shall give due regard to the needs of the employee but may require that leave be taken when it will least interfere with the work of the agency.

#### AMENDATORY SECTION (Amending Order 263, filed 11/25/86, effective 1/1/87)

WAC 356-18-116 LEAVE DUE TO UNFORESEEN CHILD CARE ((EMERGENCIES)) REQUIREMENTS. Absence due to an employee's inability to report for or continue scheduled work ((because of emergency)) due to unforeseen child care requirements shall be authorized in any of the leave categories listed below at the employee's desire((:)). No advance approval shall be required; however, the employee shall notify the agency at the beginning of the absence.

(1) Compensatory or exchange time.

(2) Vacation leave.

(3) Accrued sick leave (in accordance with WAC 356-18-060(8)).

(4) Leave without pay.

#### AMENDATORY SECTION (Amending Order 267, filed 1/2/87)

WAC 356-18-140 LEAVE WITHOUT PAY. (1) Leave without pay may be allowed when such leave will not operate to the detriment of the state service.

(2) Leave without pay may be authorized for any reasons applicable to:

- (a) Leave with pay.
- (b) Educational leave.
- (c) Newborn or adoptive child care leave as provided in WAC 356-18-150.

(d) Military and U.S. Public Health Service and Peace Corps leave.

(e) Specific leaves granted for government service in the public interest upon specific request of an employee, concurred in by the appointing authority and approved by the director of personnel.

(f) Leave taken voluntarily to reduce the effect of an agency reduction in force ((leaving the employee's standing with regard to the RIF register in tact)). Such leave shall not affect an employee's seniority.

(g) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability (as defined in WAC 356-05-260).

(3) Authorized leave without pay shall be limited to not more than 12 months in any consecutive five-year period, except for:

(a) Leaves without pay for military, U.S. Public Health Service or Peace Corps;

(b) Authorized government leave not exceeding two years;

(c) Employees receiving time loss compensation;

(d) Educational leaves under provisions of WAC 356-39-120;

(e) Newborn or adoptive child care leave under provisions of WAC 356-18-150; ((or))

(f) Leave taken voluntarily to reduce the effect of an agency reduction in force under the provisions of WAC 356-30-335.

(g) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability (as defined in WAC 356-05-260).

(4) Leave without pay exceeding twelve months in a consecutive five-year period, not covered by the exceptions noted in subsection (3) of this section, shall be treated as unauthorized absence.

(5) Employees returning from authorized leave without pay shall be employed in the same position, or in another or similar position in the same class and in the same geographical area, provided that such return to employment is not in conflict with rules relating to reduction in force.

AMENDATORY SECTION (Amending Order 153, filed 4/15/81)

**WAC 356-18-150 LEAVE—NEWBORN OR ADOPTIVE CHILD CARE—PROVISION.** (1) Child care leave without pay may be authorized to a permanent employee who is the parent of a newborn child or is the adoptive parent of a child if the leave is requested in advance by the employee ((Leave must be requested within 60 days of adoption)). The duration of ((the)) such leave without pay shall be no more than six months. ((Prior to taking child care leave, employees

shall indicate in writing the duration of the leave. Employees shall be allowed to use their accrued vacation leave, or any portion thereof, in conjunction with unpaid child care leave granted in accordance with this rule. Because of operational necessity, an agency may deny child care leave. In such cases employees shall be informed of their right to petition this decision to the director of personnel. The director may require that child care leave be granted by the agency upon petition by the employee. When an agency denies child care leave under this rule, and the director of personnel does not require it, an employee who vacates her/his position for the purpose of child care may request reemployment at any time within a six month period after vacating the position, and after such request to the department of personnel shall be offered the first opening in the former class and work location. This offer of employment shall take precedence over all registers except the reduction in force register.)) Leave must be requested within sixty days of adoption.

(2) The employee shall make the request for child care leave without pay in writing and indicate the duration of the leave. Employees shall be allowed to use their accrued vacation leave, or any portion thereof, in conjunction with child care leave without pay authorized in accordance with this section.

(3) An agency may deny the child care leave request on the basis of operational necessity. Denials shall be in writing to the employee and shall inform the employee of the right to petition the director of personnel for review.

(4) The director shall review the petition and may require the agency to authorize the child care leave request.

(5) When an agency denies child care leave under this section, and the director of personnel does not require it, an employee who vacates his/her position for the purpose of child care leave may request to return to state service. Such employee must notify the department of personnel, within six months of vacating the position, of their desire to return to work. The department of personnel shall direct the former employing agency to offer the employee the first vacancy in the employee's former class and geographic work location. This offer shall take precedence over all registers except for reduction-in-force registers.

AMENDATORY SECTION (Amending Order 120, filed 5/12/78)

**WAC 356-18-160 MILITARY LEAVE—REEMPLOYMENT.** (1) Any person who is a resident of this state and who voluntarily or upon demand vacates a position of employment other than temporary to determine physical fitness to enter or who actually does enter upon active duty or training in the Washington National Guard, the armed forces of the United States or the United States Public Health Service shall be reemployed ((within 90 days of discharge)) under the conditions prescribed in ((WAC [RCW])) RCW 73.16.031 through 73.16.061.

(2) Such persons must ((return to state service within three months after serving four years or less provided

~~that any additional service imposed by law will not affect their reemployment rights (RCW 73.16.035.)):~~

(a) Provide written notice to their employer within ninety days of the date of separation or release from training and service (rejected applicants must apply within thirty days from date of rejection);

(b) Furnish a receipt of honorable discharge, report of separation or certificate of satisfactory service or other proof of satisfactorily completed service (rejected applicants must furnish proof of orders for examination and rejection);

(c) Return to state service within three months after serving four years or less provided that any additional service imposed by law will not affect their reemployment rights (RCW 73.16.035).

(3) The employer shall, upon receipt of an individual's notice to return, restore the individual to his/her former position, or to a position in the same or similar class located within a reasonable commuting distance of the former position.

(4) Any person who is reemployed under the conditions prescribed in RCW 73.16.031 through 73.16.041 shall return without loss of seniority and be entitled to all rights and benefits.

#### AMENDATORY SECTION (Amending Order 267, filed 1/2/87)

**WAC 356-18-220 LEAVE WITHOUT PAY—EFFECT ON ANNIVERSARY DATE AND PERIODIC INCREMENT DATE.** (1) Leave without pay of fifteen consecutive calendar days or less will not affect an employee's anniversary date or periodic increment date.

(2) When an employee is on leave without pay for more than fifteen consecutive days, the employee's seniority anniversary date and periodic increment date will not be affected when the absence is due to any of the following reasons:

(a) Military or United States Public Health Service and Peace Corps;

(b) Government service which had the director of personnel's approval;

(c) Injuries sustained while performing the employee's state job;

(d) Educational leave in accordance with the provisions of WAC 356-39-120;

(e) Leave without pay taken voluntarily to reduce the effect of an agency reduction in force.

(3) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed in subsection (2) of this section, the employee's anniversary date and periodic increment date shall be moved forward in an amount equal to the duration of the leave of absence.

(4) When an employee's position is assigned to a program or facility whose primary purpose is academic and/or vocational education, and the program or facility follows the customary public school practice of less than a twelve-month school year, the employing agency may place the employee on leave without pay while the program or facility is closed for customary school vacations

without adjusting the employee's anniversary and periodic increment dates.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

**WAC 356-18-180 RETURNING EMPLOYEE RIGHTS.**

#### **WSR 89-06-029**

#### **NOTICE OF PUBLIC MEETINGS HOSPITAL COMMISSION**

[Memorandum—February 24, 1989]

The regular meetings of the Washington State Hospital Commission, scheduled for Thursday, April 27, 1989, and May 25, 1989, have been rescheduled to be held on April 6, 1989, and May 11, 1989, respectively, at the West Coast Sea-Tac Hotel, Seattle, Washington at 9:30 a.m.

#### **WSR 89-06-030**

#### **ADOPTED RULES**

#### **DEPARTMENT OF FISHERIES**

[Order 89-07—Filed February 24, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

This action is taken pursuant to Notice No. WSR 89-03-003 filed with the code reviser on January 5, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 75.08.070 and 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** February 21, 1989.

By Judith Merchant  
for Joseph R. Blum  
Director

#### AMENDATORY SECTION (Amending Order 88-42, filed 6/28/88)

**WAC 220-44-050 COASTAL BOTTOMFISH CATCH LIMITS.** It is unlawful to possess, transport through the waters of the state, or land in any Washington state port bottomfish taken from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated:

(1) Widow rockfish (*Sebastodes entomelas*) – 30,000 pounds per vessel trip per calendar week, defined as Wednesday through the following Tuesday. It is unlawful for any vessel to make more than one landing in excess of 3,000 pounds per calendar week.

(2) Shortbelly rockfish (*Sebastodes jordani*) and idiot rockfish (*Sebastolobus spp.*) – no maximum poundage per vessel trip; no minimum size.

(3) Pacific Ocean perch (*Sebastodes alutus*) – No restriction on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific Ocean perch represent 20 percent or less of total weight of fish on board. Under no circumstances may a vessel land more than 5,000 pounds of Pacific Ocean perch in any one vessel trip.

(4) All other species of rockfish (*Sebastodes spp.*) – 25,000 pounds of all other species combined per vessel trip per calendar week, defined as Wednesday through the following Tuesday, of which no more than ((+10,000)) 7,500 pounds may be yellowtail rockfish (*Sebastodes flavidus*), except that a fisherman having made a ((+1988)) 1989 declaration of intent may make either one landing of no more than 50,000 pounds of all other species combined per vessel trip biweekly, defined as Wednesday through the second Tuesday following, of which no more than ((20,000)) 15,000 pounds may be yellowtail rockfish, or two landings of not more than 12,500 pounds of all other species in any one calendar week of which not more than ((5,000)) 3,750 pounds in any one landing may be yellowtail rockfish. All previous declaration forms have expired and it is unlawful for any vessel to make other than one vessel trip per week unless a new declaration form has been completed as provided for in this subsection. The ((+1988)) 1989 declaration of intent to make other than one vessel trip per week must be mailed or delivered to the Department of Fisheries, 115 General Administration Building, Olympia, WA 98504, and must be received prior to the beginning of such fishing. The declaration of intent must contain the name and address of the fisherman, the name and registration number of the vessel, the date on which such fishing for other species of rockfish will commence, and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing by filing a declaration of intent to stop fishing other than once weekly on other species of rockfish with the department in the above manner. The declaration to stop such fishing for other species of rockfish and begin one vessel trip per calendar week fishing must be received prior to the beginning of the week in which the one vessel trip per calendar week fishing will resume. It is unlawful for any vessel to make other than one landing in excess of 3,000 pounds of other rockfish species in any calendar week, if no declaration to land other species of rockfish twice weekly has been made.

The date of first landing will determine the beginning of biweekly periodicity. Biweekly periodicity will restart after a landing that occurs more than four calendar weeks after the immediate prior landing. A calendar week is defined as Wednesday through the following Tuesday.

(5) Sablefish.

(a) Trawl vessels – No trip limit. No restrictions on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if sablefish represent ((20)) 45 percent or less of total combined round weight of ((fish)) sablefish, Dover sole, arrowtooth flounder, and thornyhead rockfish on board((, or 6,000 pounds round weight)) (to convert from round weight to dressed weight multiply the dressed weight by 1.75)((, whichever is greater, with a maximum of two vessel trips per week)). Minimum size 22 inches in length, unless dressed in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. Trawl vessels are allowed an incidental catch less than the minimum size of 45 percent of the total combined round weight of sablefish, Dover sole, arrowtooth flounder and thornyhead rockfish, not to exceed 5,000 pounds((, round weight)) per trip.

(b) Nontrawl vessels – No trip limit. Minimum size 22 inches in length, unless dressed, in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. Nontrawl vessels are allowed an incidental catch less than the minimum size of 1,500 pounds, round weight, or three percent of the total round weight of sablefish on board, whichever is greater, per trip.

(6) It is unlawful during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a vessel trip limit.

(7) For purposes of this section, a vessel trip is defined as having occurred upon the initiation of transfer of catch from the fishing vessel, and all fish aboard the vessel are considered part of the vessel trip limit at the initiation of transfer of catch.

**WSR 89-06-031  
ADOPTED RULES  
DEPARTMENT OF FISHERIES**  
[Order 89-06—Filed February 24, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to aquaculture fees.

This action is taken pursuant to Notice No. WSR 89-03-004 filed with the code reviser on January 5, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 75.58.010 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 21, 1989.  
 By Judith Merchant  
 for Joseph R. Blum  
 Director

Dated: February 16, 1989  
 By: Judith Merchant  
 for Joseph R. Blum  
 Director

**NEW SECTION**

**WAC 220-77-080 AQUACULTURE FEE SCHEDULE.** (1) The following is a list of the charges to be assessed for tissue samples submitted to the department for pathogen examination. All samples for stock certification must be collected by department personnel or individuals approved by the department.

**Virology**

|                               |             |
|-------------------------------|-------------|
| Kidney/spleen or other tissue | \$15/sample |
| Ovarian fluid                 | 12/sample   |

**Bacteriology**

|                                |            |
|--------------------------------|------------|
| Bacterial Kidney Disease - FAT | \$ 7/slide |
| Culture and characterization   | 10/sample  |
| Gram stain                     | 1/sample   |

**Parasitology**

|               |   |
|---------------|---|
| C. shasta     | \$ 1/fish   |
| M. cerebralis | 1.50/fish (0-30 grams)<br>2.00/fish (30-100 grams)<br>10.00/fish (>100 grams) |

**Collection Fees**

|   |                        |
|---|------------------------|
| Collecting samples (includes travel time) | \$27/hour              |
| Mileage                                   | at published OFM rates |
| Per diem (if applicable)                  | at published OFM rates |

**Diagnostic Service**

|  |                        |
|--|------------------------|
| Diagnostic services (includes travel time) | \$27/hour              |
| Mileage                                    | at published OFM rates |
| Per diem (if applicable)                   | at published OFM rates |

(2) The funds received from the aquatic farmers who use disease inspection and other services provided by department personnel shall be placed into a designated account. Funds from the account shall be used solely for administering the disease inspection and control program.

**WSR 89-06-032**  
**PROPOSED RULES**  
**DEPARTMENT OF FISHERIES**  
[Filed February 24, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing regulations.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 4, 1989.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1989.

**STATEMENT OF PURPOSE**

**Title:** WAC 220-33-005 Definitions—River mouth sanctuaries.

**Description of Purpose:** Redefine the Cowlitz River mouth sanctuary.

**Statutory Authority:** RCW 75.08.080.

**Summary of Rule and Reasons Supporting Proposed Action:** The current definition of the mouth of the Cowlitz River uses "Light 33" and "the shipping channel" as reference points. Since the shipping channel has breadth, the definition is ambiguous. The new definition uses "the center of the shipping channel" and a fishing boundary marker that has been placed at the junction of the Port of Longview and international paper docks, for ease of reference.

**Personnel Responsible for Drafting:** Evan S. Jacoby, 115 General Administration Building, Olympia, WA, 586-2429; **Implementation:** Gene DiDonato, 115 General Administration Building, Olympia, WA, 753-6600; and **Enforcement:** James W. McKillip, 115 General Administration Building, Olympia, WA, 753-6585.

These rules are proposed by the Washington State Department of Fisheries.

**Comments:** No hearing has been scheduled.

These proposals are not the result of federal law or court order.

**Small Business Economic Impact Statement:** No differential impact is anticipated. No effect on 10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

**AMENDATORY SECTION** (Amending Order 88-86, filed 9/2/88)

**WAC 220-33-005 DEFINITIONS—RIVER MOUTH SANCTUARIES.** As used in this chapter and emergency rules of the director, unless the context clearly requires otherwise:

**GRAYS BAY**

(1) "Grays Bay sanctuary" means those waters of the Columbia River and Grays Bay northerly of a line projected from Rocky Point Light (flashing green 4-second) easterly to Harrington Point.

**ELOKOMIN**

(2) "Elokomin-A sanctuary" means those waters of Elokomin Slough and the Columbia River lying northerly and easterly of a straight line from light "37" on the Washington shore to light "39" on Hunting Island.

(3) "Elokomin-B sanctuary" means those waters of Elokomin Slough, Steamboat Slough and the Columbia River lying inside, northerly and easterly of a straight line from light "35" (group flashing green) located on Price Island to light "39" (flashing green) on Hunting Island and northerly and easterly of a line between flashing light "33" on Price Island and quick flashing green light "31" on the Washington shore.

**ABERNATHY**

(4) "Abernathy sanctuary" means those waters of the Columbia River near the mouth of Abernathy Creek from a point 1,300 yards downstream from Abernathy Creek at light "81" (flashing green 4-second) to a point one-half mile upstream and extending to the mid shipping channel of the Columbia River.

**COWLITZ**

(5) "Cowlitz sanctuary" means those waters of the Columbia River and Carrolls Channel lying inside the center of the shipping channel ((range markers)) between ((~~flashing red light "33"~~)) a fishing boundary marker at the junction of the Port of Longview docks and international paper docks on the Washington shore approximately one mile downstream from the Cowlitz River mouth and flashing green light "29A" on Cottonwood Island and also those waters of Carrolls Channel downstream of a line between a fishing boundary marker approximately 3000 feet upstream of the Cowlitz River mouth and a fishing boundary marker on Cottonwood Island.

**KALAMA**

(6) "Kalama-A sanctuary" means those waters of the Columbia River between a fishing boundary marker on the Washington shore approximately one mile downstream and a point one-half mile upstream of the mouth of the Kalama River and lying within one-quarter mile of the Washington shore.

(7) "Kalama-B sanctuary" means those waters of the Columbia River between a fishing boundary marker on the Washington shore approximately one mile downstream and a point one-half mile upstream of the mouth of the Kalama River and extending completely across the Columbia River, excepting those waters west of a line projected from Coffin Rock Light "42" in Oregon to the Kalama Range Light "47A" on the Washington shore.

**LEWIS**

(8) "Lewis-A sanctuary" means those waters of the Columbia River between a point one mile downstream and a point one-half mile upstream of the mouth of the Lewis River and lying within one-quarter mile of the Washington shore.

(9) "Lewis-B sanctuary" means those waters of the Columbia River near the mouth of the Lewis River lying easterly of lines projected from light "79" (flashing green) to the Red Buoy No. 4 thence to a fishing boundary marker on Bachelor Island.

**WASHOUGAL**

(10) "Washougal sanctuary" means those waters of Camas Slough lying upstream from a line projected true north from the most western tip of Lady Island to the Washington shore and inside of the State Highway 14 Bridge.

**OREGON**

(11) "Big Creek sanctuary" means those waters of the Columbia River at the mouth of Big Creek from the Oregon shore across Knappa Slough to Karlson Island about one-quarter mile upstream of the east bank of Big Creek, at the Gnat Creek deadline downstream to the east end of Minaker Island which is about three-quarters mile downstream from the west bank at the mouth of Big Creek.

(12) "Gnat Creek sanctuary" means those waters of the Columbia River between a point one mile downstream and a point at the upper easterly bank at the mouth of Gnat Creek and lying within one-quarter mile of the Oregon shore.

(13) "Sandy River sanctuary" means those waters of the Columbia River between a point one mile downstream and a point at the upper easterly bank at the mouth of the Sandy River and lying within one-quarter mile of the Oregon shore.

**WSR 89-06-033  
PROPOSED RULES  
DEPARTMENT OF FISHERIES**  
[Filed February 24, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing regulations.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 4, 1989.

The authority under which these rules are proposed is RCW 75.08.080 and 75.10.120.

The specific statute these rules are intended to implement is RCW 75.10.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1989.

Dated: February 23, 1989

By: Judith Merchant  
for Joseph R. Blum  
Director

**STATEMENT OF PURPOSE**

Title: WAC 220-20-055 Commercial license conditions.

Description of Purpose: Amend forfeitable bond point system.

Statutory Authority: RCW 75.08.080 and 75.10.120.

Summary of Rule and Reasons Supporting Proposed Action: The current point system calls for increasing the bond amount based on additional convictions. The intent is to deter individuals who have knowledge of their potential liability. This amendment will reduce the initial bond for 1990 to a flat \$1,000 per point, reducing the amount certain individuals will have to initially post.

Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, WA, 586-2429; Implementation and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, WA, 753-6585.

These rules are proposed by the Washington State Department of Fisheries.

Comments: No hearing has been scheduled.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: No differential impact is anticipated. No effect on 10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

**AMENDATORY SECTION** (Amending Order 87-150, filed 10/9/87)

**WAC 220-20-055 COMMERCIAL LICENSE CONDITIONS.**

(1) Upon being convicted twice or more for commercial fishing violations within a five-year period, a fisherman is required to post a security each year to obtain a license until the fisherman has only one conviction within the immediate five prior calendar years. The amount of the security is based upon an accumulation of points, and the security is subject to forfeiture as a civil penalty in the event the fisherman receives a third or subsequent conviction.

(2) The following points will be assigned for each conviction of the indicated type:

(a) All commercial fishing violations, except salmon time and area violations requiring mandatory suspension under RCW 75.10.130 and those violations provided for in (c) of this subsection - 2 points.

(b) Charter boat violations involving gear, angler permits, and time and area violations other than salmon - 2 points.

(c) Violations for failure to display boat registration numbers, buoy brand numbers, or herring validation pennant - 1 point.

(3) Upon conviction of the second offense, the fisherman must post a security in the following amount depending on the point total of the convictions within the immediate five prior calendar years:

| 2nd Conviction     | 3rd Conviction      | 4th Conviction      |
|--------------------|---------------------|---------------------|
| 2 points - \$2,000 | 3 points - \$ 6,000 | 4 points - \$12,000 |
| 3 points - \$3,000 | 4 points - \$ 8,000 | 5 points - \$15,000 |
| 4 points - \$4,000 | 5 points - \$10,000 | 6 points - \$18,000 |
|                    | 6 points - \$12,000 | 7 points - \$21,000 |
|                    |                     | 8 points - \$24,000 |

Except: During calendar year 1990 the amount shall be the number of points as provided in subsection (2) of this section times \$1,000.

(4) Upon subsequent conviction for an offense committed during any time period in which the security is required as provided for in this section, the security shall be forfeited to the department and a new security must be posted with the department based upon the total number of points accumulated within the five-year period prior to receiving a fishing license. After the fifth conviction for offenses committed within a five-year period, the fisherman must appeal to the director for issuance of a license, and the director may impose both a security amount and additional conditions.

(5) When sufficient time has elapsed such that the convicted fisherman has only one conviction within the ((last)) immediate five prior calendar years, the department shall release the security, except that if criminal charges are pending, the security shall not be released pending resolution of the criminal charges. The security shall only be released upon written notification from the department.

(6) An acceptable security shall be a corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under chapter 48.28 RCW and approved by the department, a cash deposit, negotiable securities acceptable to the department, or an assignment of a savings account or savings certificate in a bank on an assignment form prescribed by the department.

**WSR 89-06-034  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 2766—Filed February 24, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to alcohol detoxification program, amending chapter 388-40 WAC and adding new WAC 388-40-091.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the Department of Social and Health Services finds that the immediate amendment of chapter 388-40 WAC is necessary for the preservation of the public health, safety, and general welfare. Emergency legislation signed by the governor on January 17, 1989, has restored funding to the ADATSA program so that treatment and shelter services will not be terminated. Immediate change to these regulations are necessary to bring the implementation of restored services into compliance with the conditions set out in the emergency law SHB 1599.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 24, 1989.

By Leslie F. James, Director  
Administrative Services

**AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)**

**WAC 388-40-030 ADATSA SERVICES.** (1) The department shall provide ADATSA services to the extent provided for by legislative appropriation and only to the extent each service conforms to all conditions and limitations set by the department. The department shall establish treatment and shelter caseload ceilings and eligibility standards as needed to assure the program operates within expenditure and caseload limits.

(2) Persons who qualify for the ADATSA program ((shall)) may be eligible for:

(a) A continuum of alcohol/drug treatment services and support ((as)) described ((in)) under WAC 388-40-090((;)) and 388-40-095; or

(b) Shelter services ((as)) described ((in)) under WAC 388-40-100.

((2)) (3) Recipients of ADATSA are eligible for medical care services ((as)) described ((in)) under WAC 388-86-120.

**AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)**

**WAC 388-40-050 MEDICAL ELIGIBILITY REQUIREMENTS.** (1) If otherwise eligible, ADATSA assistance, available within the current appropriation, shall be granted to alcoholics and drug addicts whose chemical dependency is severe enough to render them incapable of gainful employment.

(2) Incapacity based on alcoholism or drug addiction shall be determined by a department designated chemical dependency assessment center. The assessment center is the department's sole source of medical evidence required for the diagnosis and evaluation of alcoholism/drug addiction and its effects on employability.

(a) The department shall require such an assessment in writing for all ADATSA applicants.

(b) The costs of assessments needed to determine eligibility shall be paid for by the department.

**AMENDATORY SECTION (Amending Order 2740, filed 12/21/88)**

**WAC 388-40-080 ADATSA ASSESSMENT CENTERS—ROLE.** (1) ADATSA assessment centers shall:

(a) Be responsible for diagnostic evaluation and placement; and

(b) Not be responsible for providing direct treatment.

(2) The assessment center shall, in accordance with standards set forth under chapter 275-19 WAC, conduct a face-to-face diagnostic assessment of the applicant to:

(a) Determine ((incapacity)) if the applicant is incapacitated from gainful employment based on alcoholism or drug addiction; and

(b) Determine whether the incapacitated applicant is willing and able to undergo a course of treatment or desires shelter or medical assistance only.

(3) Once the applicant's financial and medical eligibility is established, the assessment center shall:

(a) Determine if treatment or shelter is available, subject to caseload ceilings established by the department;

(b) Arrange all placements into treatment and/or shelter facilities, taking into account the treatment priorities set forth under WAC 388-40-091;

((b)) (c) Provide the applicant with written notification of the applicant's right to return to the CSO at any time while receiving ADATSA treatment or shelter assistance. This includes, but is not limited to, those situations where the ADATSA recipient is discharged from any inpatient, recovery house, outpatient, or shelter facility providing services under contract to the department;

((c)) (d) Provide the applicant with written notification of the applicant's right to request a fair hearing to challenge any action which affects eligibility for ADATSA treatment or shelter assistance;

((d)) (e) Provide ongoing case monitoring of treatment and/or shelter services; ((and))

((e)) (f) Notify the community services office promptly of all placement or eligibility status changes, and

(g) Notify a client, placed on a shelter waiting list, they may return to the Community Services Office to redetermine the client's eligibility for financial assistance because of physical or mental incapacities.

#### AMENDATORY SECTION (Amending 2635, filed 6/21/88)

**WAC 388-40-090 ADATSA TREATMENT MODALITIES—DESCRIPTION OF SERVICES, REQUIREMENTS, AND LIMITATIONS.** (1) The department shall offer ADATSA treatment services to eligible applicants/recipients incapacitated by alcoholism or drug addiction, subject to availability defined under WAC 388-40-030(1) and priority classifications set forth under WAC 388-40-091.

(2) The department shall limit treatment services to a ((total)) maximum of six months in a twenty-four month period. The twenty-four month period begins on the date of initial entry into treatment.

(3) The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement, and treatment needs in accordance with RCW 70.96A.100(2) and the procedures in WAC 275-19-185.

(4) Treatment may consist of residential and/or outpatient services.

(5) The department shall limit residential treatment to the following services:

(a) Intensive inpatient treatment, not to exceed thirty days per admission;

(b) Recovery house treatment, not to exceed sixty days per admission;

(c) Extended care recovery house treatment, not to exceed ninety days;

(d) Long-term care residential treatment, not to exceed one hundred eighty days;

(e) Drug residential treatment, not to exceed one hundred eighty days.

(6) An applicant/recipient ((that)) may qualify for up to ((six)) three months of direct outpatient treatment services if the assessment center determines ((that)) residential treatment is not necessary or appropriate. The assessment center shall base this determination on clinical or medical factors which would indicate the likelihood that an applicant/recipient would succeed in a less-structured primary treatment modality. Such factors may include an assessment of former treatment history, the number of detoxification admissions, and the chronicity, and degree of incapacity of the applicant/recipient. The assessment center shall also consider social factors such as the availability of social support systems, family support, and stable living arrangement when evaluating the individual's ability to benefit from primary outpatient treatment.

(7) A recipient seeking ninety days or more of continuous, direct outpatient treatment shall return to the assessment center after seventy-five days of outpatient treatment for re-evaluation. The assessment center shall determine:

(a) Whether the recipient remains incapacitated; and  
(b) If more than ninety days of outpatient treatment is necessary or appropriate.

Availability of additional outpatient treatment shall be based upon the priorities under WAC 388-40-091.

(8) When outpatient treatment caseloads exceed one thousand seventy-five clients, applicants for outpatient treatment may be placed on a waiting list.

(9) ADATSA recipients who withdraw from treatment for any reason shall be subject to termination and shall reapply and/or be rereferred to the assessment center if they wish further ADATSA services.

(a) Recipients who drop out of treatment in the intensive inpatient phase may be required to repeat this phase.

(b) Recipients who drop out of treatment during the recovery house or outpatient phase may be required to return to the modality from which they dropped out or may be required to enter intensive inpatient treatment if, in the clinical judgment of the assessment center, a more structured form of treatment seems warranted. The assessment center shall refer to inpatient or residential treatment those recipients who demonstrate an inability to remain abstinent in outpatient treatment.

(c) Recipients who have been absent from inpatient treatment or other residential services for less than seventy-two hours may, at full discretion of the providing program director, reenter that program without being considered as having dropped out and without being required to reapply for readmittance through the assessment center.

#### NEW SECTION

**WAC 388-40-091 AVAILABILITY OF TREATMENT—PRIORITY GROUPS.** (1) Due to limited availability of treatment, the department shall provide residential and/or outpatient treatment services to eligible applicants/recipients under the following descending list:

- (a) Pregnant women;
- (b) Persons referred through the child protective services program;
- (c) Adults residing in households with children;
- (d) Persons receiving ADATSA shelter assistance, or other financial or medical assistance;
- (e) Persons of the above-priority classes who require additional treatment; and
- (f) Other applicants.

(2) Whenever waiting lists develop, the assessment center shall make treatment placements in order of priority.

(3) The department shall make reductions in outpatient caseload based on the priorities under subsection (1) of this section in inverse order if reductions in outpatient caseloads are necessary to meet the caseload limit.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION (Amending Order 2740, filed 12/21/88)

**WAC 388-40-100 ADATSA SHELTER SERVICES.** (1) Subject to the provisions under WAC 388-40-030(1), the department shall provide shelter services to eligible ADATSA applicants/recipients:

- (a) Who refuse treatment; or
- (b) Who have exhausted their six months of treatment in a twenty-four month period; or
- (c) ((Who are)) In temporary need of shelter pending placement into a treatment facility.

(2) Eligible applicants/recipients wishing shelter services shall have their choice of:

- (a) Placement by the assessment center into a department-contracted shelter facility which provides room and board; or
- (b) A shelter assistance payment, through a protective payee, for independent housing and basic needs.

(3) The department shall provide assistance for independent housing only to recipients who will be residing in a permanent residential structure. These recipients must also have a deed of purchase, rental agreement, or other verifiable written agreement between themselves and the person or entity to whom they are obligated for shelter costs or from whom they are receiving supplied shelter.

(4) The department shall base the amount of assistance for independent housing and basic needs on the appropriate payment standard in WAC 388-29-100 (3)(a) or (b). For recipients in a contracted shelter facility, the department shall provide an allowance for clothing and personal incidentals based on the standard in WAC 388-29-130.

(5) Recipients receiving contracted shelter services who subsequently leave shelter without notice for more than seventy-two hours, or are discharged from the facility for disciplinary reasons, shall be subject to termination. Upon reapplication and/or re-referral, the assessment center shall again offer treatment and/or shelter as appropriate.

(6) When the projected average shelter caseload, during the period from January 1, 1989 through June 30, 1989, exceeds one thousand two hundred and thirteen clients per month, applicants for shelter assistance shall be placed on a waiting list.

(7) The department shall make reductions in shelter caseloads based on the following priorities in descending order if reductions in shelter caseloads are necessary to meet the caseload limit. The priority groups are persons who have received shelter assistance longer than:

- (a) Six months or longer;
- (b) Five months or longer;
- (c) Four months or longer;
- (d) Three months or longer;
- (e) Two months or longer; or
- (f) One month or less.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

**WAC 388-40-001 AVAILABILITY OF ADATSA SERVICES TO APPLICANTS.**

**WAC 388-40-002 AVAILABILITY OF ADATSA SERVICES TO CURRENT RECIPIENTS.**

#### **WSR 89-06-035**

#### **PROPOSED RULES**

#### **DEPARTMENT OF LABOR AND INDUSTRIES**

[Filed February 24, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning:

Amd WAC 296-125-043 Minimum wages for minors.  
Amd WAC 296-126-020 Minimum wages—Minors.

The proposed rules are intended to establish a new minimum wage for persons under the age of 18. WAC 296-125-043(1) and 296-126-020(1) establishes a minimum wage of 85% per hour of the minimum wage established for adults, age 18 and over, pursuant to RCW 49.46.020.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 3, 1989.

The authority under which these rules are proposed is chapters 49.12 and 49.46 RCW and RCW 43.22.270.

The specific statute these rules are intended to implement is chapters 49.12 and 49.46 RCW.

This notice is connected to and continues the matter in Notice No. WSR 89-01-111 filed with the code reviser's office on December 21, 1988.

Dated: February 24, 1989

By: Joseph A. Dear  
Director

**WSR 89-06-036**

**NOTICE OF PUBLIC MEETINGS  
BUILDING CODE COUNCIL**  
[Memorandum—February 27, 1989]

The State Building Code Council meeting scheduled for March 10, 1989, at Angle Lake Fire Hall, 2929 South 200th Avenue, Seattle (Sea-Tac vicinity) has been cancelled.

The council will meet again on April 14, 1989, according to their previously published notice of January 20, 1989.

**WSR 89-06-037**

**NOTICE OF PUBLIC MEETINGS  
TRANSPORTATION IMPROVEMENT BOARD**  
[Memorandum—February 24, 1989]

**MARCH AND APRIL 1989  
TRANSPORTATION IMPROVEMENT BOARD  
TRANSPORTATION BUILDING  
OLYMPIA, WASHINGTON 98504**

Worksession, 1:30–5:00 and 7–9 p.m., Thursday, March 16, 1989, at the Westwater Inn, Olympia.

TIB meeting, 9:30 a.m., Friday, March 17, 1989, at the Transportation Building, Olympia.

TIB meeting, 9:30 a.m., Friday, April 21, 1989, at the City Hall, Vancouver.

**WSR 89-06-038**

**REVIEW OF RULES  
DEPARTMENT OF TRANSPORTATION**  
[Filed February 27, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.230, that the Department of Transportation intends to review the following rules:

- Ch. 468-06 WAC Public access to information and records (F and B Division).
- Ch. 468-10 WAC Practice and Procedure (Attorney General Division).
- Ch. 468-12 WAC Transportation Commission and Transportation Department, State Environmental Policy Act rules (Highway Division).
- Ch. 468-18 WAC State aid office (state aid).
- Ch. 468-300 WAC State ferries and toll bridges (Marine Division).

The agency will at 10:00 a.m., Monday, May 8, 1989, in the Boardroom, 1D 2, Transportation Building, Olympia, Washington, conduct a public hearing on the rules.

This administrative review of rules is a result of chapter 324, Laws of 1981 (SSB 3386). As a result, the Department of Transportation has outlined a schedule for reviewing all of its rules once every four years.

Dated: February 27, 1989

By: Ed W. Ferguson  
Deputy Secretary

**WSR 89-06-039**

**WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF PERSONNEL  
(Personnel Board)**  
[Filed February 24, 1989]

Notice is hereby given that the State Personnel Board wants to withdraw the notice of intention to amend WAC 356-15-090 Schedule change and compensation.

The notice of intention was filed on February 21, 1989, WSR 89-06-009.

Robert Boysen  
Acting Director

**WSR 89-06-040**

**PROPOSED RULES  
DEPARTMENT OF PERSONNEL  
(Personnel Board)**  
[Filed February 27, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning schedule change and compensation, amending WAC 356-15-090;

that the agency will at 10:00 a.m., Thursday, April 13, 1989, in the Board Hearings Room, Department of Personnel, 521 South Capitol Way, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 11, 1989.

Dated: February 24, 1989

By: Robert Boysen  
Acting Director

**STATEMENT OF PURPOSE**

Title: Amending WAC 356-15-090 Schedule change and compensation.

Purpose: Sets rules for prior notice of schedule change and overtime rates for lack thereof. Provides for contingency scheduling for snow removal, forest fires, etc.

Statutory Authority: RCW 41.06.150(9).

Summary: This proposal would authorize contingency scheduling for nonscheduled and exception employees on forest fires; allow uniform pay practice; provide for contingency schedules to be set at the time of emergency, rather than 30 days in advance; and provide that following a contingency shift, employees shall be entitled to overtime rates for work performed until they are released from duty for five consecutive hours.

Reasons: The inequity of payments among fire control and support personnel; explainable overtime provisions;

and make contingency scheduling more closely suited to the needs for handling the emergency.

**Responsibility for Drafting:** Gail Salisbury, Department of Personnel, 521 South Capitol Way, FE-11, Olympia, WA 98504, phone (206) 753-5383; **Implementation and Enforcement:** Department of Personnel.

**Agency or Organization Submitting Proposal:** Department of Personnel, (governmental agency in cooperation with Departments of Natural Resources, Transportation, the Washington Public Employees Association and other concerned agencies).

**Comments or Recommendations:** This is intended to replace an earlier Department of Natural Resources-Washington Public Employees Association proposal for changes in the main overtime definitions and payment provisions in WAC 356-15-030.

**Rule Proposal a Result of Federal Law, or Federal or State Court Action:** No.

#### AMENDATORY SECTION (Amending Order 285, filed 11/24/87, effective 1/1/88)

**WAC 356-15-090 SCHEDULE CHANGE AND COMPENSATION.** (1) The appointing authority shall schedule the working days and hours of scheduled work period employees. This schedule shall remain in effect for at least seven calendar days, and may be changed only with seven or more calendar days notice. If seven calendar days notice is not given, a new schedule does not exist until the notice period expires. Agencies may notify employees of more than one future schedule change in a single notice.

The seven calendar days notice of changes in working days and/or hours must be given to the affected employees during their scheduled working hours. The day that notification is given shall constitute a day of notice.

(2) If the appointing authority changes the assigned hours or days of scheduled work period employees without giving them at least seven days notice of the change, employees will be paid for all time worked outside the scheduled hours or days at the overtime rate for the duration of the notice period.

(a) When changes in employees' assigned hours or days are made without proper notice, employees may work their scheduled hours or days unless the appointing authority deems that:

(i) The employees are unable to perform satisfactorily as the result of excessive overtime hours; or

(ii) The work which normally would have been performed within the scheduled hours or days cannot be performed.

(b) The state is not obligated to pay for those scheduled hours or days not worked, unless the employee is on an authorized leave of absence with pay.

(c) Overtime pay and shift or schedule change pay shall not be paid for the same incident.

(3) Regardless of whether advance notice is given, an agency is not obligated to pay overtime due to a change in work schedule, when such a change is in response to a request from an employee, provided the employee works no more than forty hours in a workweek.

When the majority of employees in a work unit ask, in writing, for such a change, and the work unit can function properly only if all employees in the unit work the proposed schedule or scheduling plan, the agency is authorized to approve the change for the entire unit as an employee-initiated change. A written request for a schedule change from the exclusive representative shall constitute a request of employees within a certified bargaining unit.

(4) When an agency initiates a scheduled change from one scheduled standard work schedule to another scheduled standard work schedule, there is created a seven-day transition period.

(a) The transition period starts at the beginning of the shift of the previous schedule which would have begun a new five-consecutive-day work cycle.

(Example: An eight-to-five Tuesday through Saturday employee changes to a Sunday-Thursday schedule beginning on Sunday. The transition period starts at eight a.m. on the last Tuesday of the old schedule, and runs until eight a.m. on the first Tuesday under the new schedule.)

(b) If, during the transition period, the employee must work more than five of the seven workdays, then the work in excess of forty non-overtime hours will be paid at overtime rates.

(c) If, during the transition period, the schedule change causes an employee to begin work on an earlier day of the workweek or at an earlier hour of the workday than was required under the old schedule, the employee will be paid at the overtime rate for the first hours worked in the new schedule which precede the next hours which the employee would have worked under the old schedule.

(5) Contingency scheduling is allowed for employees ((in-scheduled work-period positions)) having the following responsibilities: ((H))highway snow, ice, and avalanche control, grain inspection, horticulture inspection, ((and-in-the-department-of-natural-resources)), controlling forest fires ((suppression)), or performing work in a fire camp in support of fire crews, and in the department of natural resources "hoot owl," forest fuels management and aerial applications.

Therefore, for ((employees)) personnel in scheduled work period positions, ((the appointing authority shall not be bound by)) the above ((scheduled shift)) schedule change notice requirement((;)) shall not apply if the appointing authority notifies affected employees ((of the contingency schedule)) in writing that they are subject to contingency scheduling when they enter the position or not less than 30 days prior to implementation.

When ((conditions mandate the activating of the contingency schedule)) an employee's contingency schedule requires him or her to change working hours from the previous schedule, the appointing authority shall pay the affected employees the overtime rate for all hours worked outside the ((original)) previous schedule ((at least)) for the employee's first shift of the new contingency schedule and for other overtime hours covered by subsection (6) of this section.

When employees have completed the working hours of their assigned contingency shift, they shall receive overtime rates for all subsequent work performed until released from duty for a period of five consecutive hours.

(6) When a scheduled or nonscheduled work period employee experiences a schedule change (within or between agencies) which causes an overlap in workweeks and requires work in excess of forty hours in either the old or the new workweek, the employee must receive overtime compensation at least equal to the amount resulting from the following calculations:

(a)(i) Starting at the beginning of the "old" workweek, count all hours actually worked before the end of that workweek, and calculate the straight-time pay and the overtime pay (based on "regular rate" as defined in WAC 356-05-353).

(ii) Starting at the conclusion of the "new" workweek, count back to include all hours actually worked since the beginning of that workweek, and calculate the straight time and overtime (based on "regular rate" as defined in WAC 356-05-353).

(iii) Pay the larger amount calculated under (a)(i) and (ii) of this subsection.

(b) If any other combination of straight-time and time-and-one-half-rate pay required by these rules results in an amount of pay, for either workweek, which is greater than the amount calculated in (a)(iii) of this subsection, then only the larger amount should be paid.

(7) If overtime is incurred as a result of employee movement between state agencies, the overtime will be borne by the receiving agency.

#### SCHOOL DISTRICTS—OFFICES AND OFFICERS—COMPENSATION—STATE CONSTITUTION

- Currently serving school directors may lawfully adopt a resolution to receive compensation of fifty dollars or less per day as authorized by RCW 28A.57.327, but they may not constitutionally receive the compensation authorized until the beginning of their next respective terms of office.

2. If RCW 28A.57.327 were amended to make school director compensation automatic, with no discretionary act of the local board of directors involved, there would be no constitutional bar to the receipt of such compensation on a midterm basis.

Requested by:

Honorable Ken Jacobsen  
State Representative  
Forty-Sixth District  
7307 – 40th Avenue NE  
Seattle, WA 98115

**WSR 89-06-042**  
**EMERGENCY RULES**  
**DEPARTMENT OF WILDLIFE**  
**(Wildlife Commission)**  
[Order 382—Filed February 27, 1989]

Be it resolved by the State Wildlife Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to game fish regulation changes on the Cedar and Sammamish River system, Salmon Bay, and in Lakes Washington and Sammamish, WAC 232-28-61724.

We, the State Wildlife Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the wild steelhead escapement goal for the Lake Washington system is 1,600 fish. The estimated escapement for the 1988-89 season is 755 fish or 47% of the goal. Any fishery will further reduce the spawning escapement.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 27, 1989.  
By Curt Smitsch  
for Dr. James M. Walton  
Chairman, Wildlife Commission

**NEW SECTION**

**WAC 232-28-61724 GAME FISH REGULATION CHANGES ON THE CEDAR AND SAMMAMISH RIVER SYSTEMS, SALMON BAY, AND IN LAKES WASHINGTON AND SAMMAMISH.** Notwithstanding the provisions of WAC 232-28-617, as of 12:01 a.m. December 1, 1988 the following regulation changes will be in effect:

1. The Cedar and Sammamish River systems and Salmon Bay will be closed to the taking of steelhead.
2. In Lake Washington and Lake Sammamish it will be unlawful to possess steelhead trout 20" or greater in length.

**WSR 89-06-043**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF ECOLOGY**  
[Memorandum—February 28, 1989]

**Flood Control Assistance Account Program (FCAAP)  
Project Priorities**

The state Department of Ecology is evaluating and prioritizing FCAAP grant applications for the 1989-91 biennium. Included are applications for maintenance projects and comprehensive flood control management plans (CFCMP's). Anticipating that these grant agreements will be finalized and work can start on July 1, 1989, the following schedule has been established.

Monday, March 20 – A priority list of project and plan applications submitted for funding will be sent to all project applicants and county engineers who submitted applications. The priority list will also be available at the offices of the Department of Ecology, Floodplain Management Section at Baran Hall, St. Martins College in Lacey, phone (206) 459-6793 or 459-6792.

Friday, April 21, public hearing, 2:00 p.m., Olympia City Council Chambers, Olympia City Hall, 8th and Plum Street, Olympia, Washington.

Thursday, April 27, deadline for written comments.

Monday, May 8, final priority list decision will be made.

**WSR 89-06-044**  
**PROPOSED RULES**  
**HIGHER EDUCATION PERSONNEL BOARD**  
[Filed February 28, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning:

|     |                |  |
|-----|----------------|--|
| New | WAC 251-01-077 | Consecutive calendar months.                   |
| New | WAC 251-01-078 | Consecutive months.                            |
| Amd | WAC 251-01-415 | Temporary appointment.                         |
| Amd | WAC 251-04-040 | Exemptions.                                    |
| New | WAC 251-07-100 | Temporary appointment records.                 |
| Amd | WAC 251-12-600 | Remedial action.                               |
| Rep | WAC 251-19-030 | Appointment—Provisional.                       |
| Rep | WAC 251-19-040 | Appointment—Emergency.                         |
| Amd | WAC 251-19-120 | Appointment—Temporary.                         |
| New | WAC 251-19-122 | Written notification of temporary appointment; |

that the agency will at 9:00 a.m., Thursday, April 6, 1989, in the Bookstore Conference Room, Everett Community College, Everett, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.16.040(2).

The specific statute these rules are intended to implement is RCW 28B.16.040(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1989.

Dated: February 28, 1989

By: John A. Spitz  
Director

### STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on February 28, 1989, and is filed pursuant to RCW 34.04.025.

Description of Purpose: To specify the conditions applicable to temporary appointment and remedial action resulting from noncompliance with the conditions of temporary appointment.

Specific Statute this Rule is Intended to Implement: RCW 28B.16.040(2).

Statutory Authority: RCW 28B.16.040(2) to implement the provisions of that section.

Title and Summary of Rules: WAC 251-01-077 Consecutive calendar months, to define a time sequence like March, April, May; WAC 251-01-078 Consecutive months, to define a time sequence like January 15, through March 14; WAC 251-01-415 Temporary appointment, to define three conditions necessary to temporary appointment; WAC 251-04-040(5) Exemptions, to specify that persons who perform work which does not exceed 1472 hours in any twelve consecutive calendar months nor more than 86 hours per month in any six consecutive calendar months (exclusive of overtime) in accordance with WAC 251-04-040(5) are exempt from HEPB rules. Those who work in excess of that amount may be eligible for remedial action; WAC 251-07-100 Temporary appointment records, to specify the records institutions are to maintain for temporary employees in accord with WAC 251-19-122 Written notification of temporary appointment which is to be aggregated biquarterly for use by HEPB staff; WAC 251-12-600 Remedial action, to specify the criteria for determining when to grant remedial action, the scope of actions which may be taken regarding remedial action, a 30-day standard for timeliness when there is compliance with WAC 251-19-122 Written notification of temporary appointment and the conditions relating to the director's remedial action decision and exceptions which may be taken; WAC 251-19-030 Appointment—Provisional, repealed, unnecessary due to other changes; WAC 251-19-040 Appointment—Emergency, repealed, unnecessary due to other changes; WAC 251-19-120 Temporary appointment, new time standards proposed in other rules are included in this rule for consistency. Requires director approval of a procedure for controlling and monitoring exempt positions. Provides for petitioning the director for exceptions to these requirements which will

be reviewed by the board; and WAC 251-19-122 Written notification of temporary appointment, to specify elements necessary to properly inform temporary employees about the conditions of their employment.

Reasons Supporting Proposed Action: The board, because of its experience in adjudicating remedial action appeals, has determined that rules are necessary to accomplish the following: Eliminate the pattern employee, i.e., the so-called exempt employee who works above and below half-time continuously; ensure that temporary employees exempt from HEPB rules are informed of the conditions of their employment when they are hired and as the conditions change; and establish a time standard easier to understand and apply than the current standards in order to control and monitor temporary employment. IPOC has drafted an alternative to the staff proposal for board consideration.

Agency Personnel Responsible for Implementation and Enforcement: John A. Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, 234-3730 scan or 753-3730.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Larry Lael, State Board for Community College Education and Interinstitutional Personnel Officers Committee, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: Not the result of federal law or state or federal court action.

### IPOC-SBCCE PROPOSAL: REMEDIAL ACTION AND TEMPORARY RULE REVISIONS

#### NEW SECTION

**WAC 251-01-077 CONSECUTIVE CALENDAR MONTHS.** A span of time which begins on the first day of the first month in the sequence and ends on the last day of the last month in the sequence.

#### NEW SECTION

**WAC 251-01-078 CONSECUTIVE MONTHS.** A span of time which begins with the effective date of an action and ends on the day proceeding that date any number of months later.

#### AMENDATORY SECTION (Amending Order 164, filed 12/30/87, effective 2/1/88)

**WAC 251-01-415 TEMPORARY APPOINTMENT.** (1) Work performed in the absence of an employee on leave for: more than six consecutive months in accordance with WAC 251-19-120(2); or  
((a) Less than ninety consecutive calendar days (WAC 251-19-120(4));

(b) Ninety or more consecutive calendar days (WAC 251-19-120(2)), or))

(2) ((Formal assignment of the duties and responsibilities of a higher level class for a period of less than ninety consecutive calendar days)) Performance of work which does not exceed 1472 hours in any twelve consecutive calendar months nor more than 86 hours per month in any six consecutive calendar months (exclusive of overtime) in accordance with WAC 251-04-040(5); or

(3) ((Performance of extra work required at a work load peak, a special project, or a cyclic work load which does not exceed one hundred seventy-nine days consecutive calendar days)) Formal assignment of the duties and responsibilities of a higher level class for a period of less than six consecutive months.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION (Amending Order 170, filed 7/12/88)

**WAC 251-04-040 EXEMPTIONS.** The following classifications, positions, and employees of higher education institutions/related boards are hereby exempted from coverage of this chapter.

(1) Members of the governing board of each institution/related board; all presidents, vice presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; executive heads of major administrative or academic divisions employed by institutions of higher education; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington.

(2) Students employed by the institution at which they are enrolled (or related board) and who either:

(a) Work five hundred sixteen hours or less in any six consecutive months, exclusive of hours worked in a temporary position(s) during the summer and other breaks in the academic year, provided such employment does not:

(i) Take the place of a classified employee laid off due to lack of funds or lack of work; or

(ii) Fill a position currently or formerly occupied by a classified employee during the current or prior calendar or fiscal year, whichever is longer;

(b) Provided further that the hour limitation shall not apply to student employees who were hired before July 30, 1984, with an understanding of working more than the stated number of hours monthly, and also with an understanding of such employment continuing for the duration of their education. However, this exception shall apply only to students who are continuously enrolled and shall not extend beyond September 1, 1988. Students covered by this exception shall be identified to the director;

(c) Are employed in a position directly related to their major field of study to provide training opportunity; or

(d) Are elected or appointed to a student body office or student organization such as student officers or student news staff members.

(3) Students participating in a documented and approved programmed internship which consists of an academic component and work experience.

(4) Students employed through the state or federal work/study programs.

(5) Persons employed ((in a position scheduled for less than twenty hours per week or on an intermittent employment schedule)) to work 1472 hours or less in any twelve consecutive calendar months and less than 86 hours per month in any six consecutive months (both exclusive of overtime). Such an appointment may be subject to remedial action in accordance with WAC 251-12-600, if the standards for this exemption are exceeded.

((6)) Nonclassified employees filling positions identified in subsections (1)(a) and (3) of the definition of "temporary appointment" in WAC 251-01-415.)

((7)) Part-time professional consultants retained on an independent part-time or temporary basis such as physicians, architects, or other professional consultants employed on an independent contractual relationship for advisory purposes and who do not perform administrative or supervisory duties.

((8)) The director, his confidential secretary, assistant directors, and professional education employees of the state board for community college education.

((9)) The personnel director of the higher education personnel board and his confidential secretary.

((10)) The governing board of each institution/related board may also exempt from this chapter, subject to the employee's right of appeal to the higher education personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic art or publications activities requiring prescribed academic preparation or special training, and principal assistants to executive heads of major administrative or academic divisions, as determined by the higher education personnel board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trades services may be exempted by the higher education personnel board under this provision.

((11)) Any employee who believes that any classification should or should not be exempt, or any employee because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080, et seq.

((12)) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the board may approve one extension of no more than four years; and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982. Application for return to classified service must be made not later than thirty calendar days following the conclusion of the exempt appointment.

((13)) When action is taken to convert an exempt position to classified status, the effect upon the incumbent of such position shall be as provided in WAC 251-19-160.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 251-07-100 TEMPORARY APPOINTMENT RECORDS.** Each institution shall maintain information for temporary employees as specified in WAC 251-19-122. At least bi-quarterly each institution shall produce a record which shows the cumulative hours worked for each temporary employee. This record shall be kept on file in the personnel office and shall be made available to the HEPB staff upon request.

#### AMENDATORY SECTION (Amending Order 92 [174], filed 11/24/81 [11/1/88])

**WAC 251-12-600 REMEDIAL ACTION.** When it has been determined that an individual has ((served six consecutive months)) worked in excess of 1472 hours in any twelve consecutive calendar months or more than 86 hours per month in any six consecutive calendar months both exclusive of overtime and time worked as specified in WAC 251-04-040(2) in an institution in a position subject to the civil service but whose appointment by the institution has not been in accordance with ((the provisions of)) these rules, and the employee was not a party to the willful disregard of the rules, the director may take such appropriate action as to confer permanent status, set provision for salary maintenance, establish appropriate seniority, determine accrual of benefits from the seniority date established, and such other actions as may be determined appropriate pursuant to the best standards of personnel administration. If an employee through institution compliance with WAC 251- is made aware of his/her right to request remedial action in accordance with this rule, his/her request must be in writing and be filed in the office of the director within thirty calendar days after the effective date of the action appealed. The order of the director shall be final and binding unless exceptions to the order, as provided in WAC 251-12-085 (1) through (5), are filed with the board within thirty calendar days of the date of service of the order. The board will review the exceptions and may hold a hearing prior to modifying or affirming the director's order.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### REPEALER

WAC 251-19-030 APPOINTMENT—PROVISIONAL.

WAC 251-19-040 APPOINTMENT—EMERGENCY.

**AMENDATORY SECTION** (Amending Order 165, filed 12/30/87, effective 2/1/88)

**WAC 251-19-120 APPOINTMENT—TEMPORARY.** (1) Temporary appointment may be made only to meet employment conditions set forth in the definition of "temporary appointment" in WAC 251-01-415.

(2) Temporary appointment to perform work in the absence of an employee on leave for ((ninety or more consecutive calendar days)) more than six consecutive months shall be made following certification from appropriate eligible lists of eligibles who have indicated willingness to accept such temporary appointment. Employees appointed to classified positions in accordance with this subsection are covered by chapter 28B.16 RCW and Title 251 WAC. Temporary appointment made in accordance with this subsection is not limited to the ((one hundred seventy-nine consecutive calendar day)) 1472 hours in any twelve consecutive months nor 86 hours per month in any six consecutive months limitations identified in WAC 251-01-415((7)) (2) and ((subsection (5) of this section)) WAC 251-12-600.

(3) The employing official may temporarily assign a classified employee the duties and responsibilities of a higher-level class for a period of less than ((ninety consecutive calendar days)) six consecutive months. The salary shall be determined per WAC 251-08-110.

(4) Temporary appointment to positions identified in the definition of "temporary appointment" in WAC 251-01-415 ((at)), (2), and (3) may be made without regard to the rules governing appointment.

((5) Upon prior approval of the director, a temporary appointment to a position identified in WAC 251-01-415 (1)(a) may be extended beyond the eighty-ninth day, however the total period of appointment shall not exceed one hundred seventy-nine consecutive calendar days.)

((6)) (5) A permanent classified employee accepting temporary appointment to a position identified in the definition of "temporary appointment" in WAC 251-01-415 (1)((at)), (2), (3)(g) shall retain and continue to receive all rights and benefits provided by these rules for the duration of the temporary appointment.

((7)) (6) At the conclusion of a temporary appointment ((of less than one hundred eighty consecutive calendar days)) made in accordance with these rules, a permanent employee shall have the right to revert to his/her former position or to an equivalent position.

((8)) (7) Each institution shall ((file with the director)) develop for director approval a procedure which indicated ((their)) its system for controlling and monitoring exempt positions as identified in RCW 28B.16.040(2).

(8) An institution may petition the director for approval of exceptions to the requirements. The director will annually review the appropriateness of exceptions granted and advise the board.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

**NEW SECTION**

**WAC 251-19-122 WRITTEN NOTIFICATION OF TEMPORARY APPOINTMENT.** (1) All temporary employees shall be notified in writing of the conditions of their employment prior to the commencement of each appointment and/or upon any subsequent change to the condition of their employment.

(2) The written notification shall contain the following information:

(a) The reason for the temporary appointment (see WAC 251-01-415);

(b) The hours of work and the hourly rate of pay;

(c) The duration of appointment. The duration shall be expressed as a starting and expected end date;

(d) The name of the employee's supervisor;

(e) A statement regarding the receipt or non-receipt of benefits. If the employee is to receive benefits, the statement shall include which benefits are to be received;

(f) The expected status of the employee within the HEPB system upon completion of the appointment;

(g) The signature of the personnel officer and/or authorizing hiring official;

(h) The signature of the employee verifying receipt of the written notification;

(i) A statement of the number of work hours that the appointment may not exceed because it would constitute a violation of WAC 251-01-415.

**WSR 89-06-045****PROPOSED RULES****HIGHER EDUCATION PERSONNEL BOARD**

[Filed February 28, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning:

|     |                |  |
|-----|----------------|--|
| New | WAC 251-24-200 | HIV and AIDS training for employees.           |
| Amd | WAC 251-24-030 | Training and development programs—Contents.    |
| New | WAC 251-01-077 | Consecutive calendar months.                   |
| New | WAC 251-01-078 | Consecutive months.                            |
| Amd | WAC 251-01-415 | Temporary appointment.                         |
| Amd | WAC 251-04-040 | Exemptions.                                    |
| New | WAC 251-07-100 | Temporary appointment records.                 |
| Amd | WAC 251-12-600 | Remedial action.                               |
| Rep | WAC 251-19-030 | Appointment—Provisional.                       |
| Rep | WAC 251-19-040 | Appointment—Emergency.                         |
| Amd | WAC 251-19-120 | Appointment—Temporary.                         |
| New | WAC 251-19-122 | Written notification of temporary appointment; |

that the agency will at 9:00 a.m., Thursday, April 6, 1989, in the Bookstore Conference Room, Everett Community College, Everett, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.16.040(2) and 70.24.300.

The specific statute these rules are intended to implement is RCW 28B.16.040(2) and 70.24.300.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1989.

Dated: February 28, 1989

By: John A. Spitz

Director

**STATEMENT OF PURPOSE**

This statement is related to the notice filed with the code reviser on February 28, 1989, and is filed pursuant to RCW 34.04.025.

**Description of Purpose:** This meets the legislative requirements of SSB [E2SSB] 6221, AIDS prevention and information programs, which became effective March 23, 1988, and was codified as RCW 70.24.300.

**Specific Statute this Rule is Intended to Implement:** RCW 70.24.300.

**Statutory Authority:** RCW 70.24.300 to implement the provisions of that section.

**Title and Summary of Rules:** WAC 251-24-200 HIV and AIDS training for employees, the new rule requires employers to provide HIV and AIDS prevention, transmission and treatment training for employees who have

a substantial likelihood of exposure to the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS); and WAC 251-24-030 (5)(g) Training and development programs—Contents, the amended rule requires institutions in their training and development programs to identify proposed training activities for employees who have a substantial likelihood of exposure to the human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS).

**Reasons Supporting Proposed Action:** The rule details employers' responsibility for providing HIV/AIDS training as specified in RCW 70.24.300. The addition to chapter 251-24 WAC meets the legislative requirements of 2SSB [E2SSB] 6221, AIDS prevention and information programs, which became effective March 23, 1988, and was codified as RCW 70.24.300.

**Agency Personnel Responsible for Drafting, Implementation and Enforcement:** John A. Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, 234-3730 scan or 753-3730.

**Person or Organization Proposing Rule, and Whether Public, Private or Governmental:** Higher Education Personnel Board staff, governmental.

**Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters:** Not the result of federal law or state or federal court action.

**Description of Purpose:** To specify the conditions applicable to temporary appointment and remedial action resulting from noncompliance with the conditions of temporary appointment.

**Specific Statute this Rule is Intended to Implement:** RCW 28B.16.040(2).

**Statutory Authority:** RCW 28B.16.040(2) to implement the provisions of that section.

**Title and Summary of Rules:** WAC 251-01-077 Consecutive calendar months, to define a time sequence like March, April, May; WAC 251-01-078 Consecutive months, to define a time sequence like January 15, through March 14; WAC 251-01-415 Temporary appointment, to define three conditions necessary to temporary appointment; WAC 251-04-040(5) Exemptions, to specify that persons who work less than 1050 hours in any twelve consecutive month period from the original hire date are exempt from HEPB rules. Those who work in excess of that amount may be eligible for remedial action; WAC 251-07-100 Temporary appointment records, to specify the records institutions are to maintain for temporary employees in accord with WAC 251-19-122 Written notification of temporary appointment which is to be aggregated biquarterly for use by HEPB staff; WAC 251-12-600 Remedial action, to specify the criteria for determining when to grant remedial action, the scope of actions which may be taken regarding remedial action, a 30-day standard for timeliness when there is compliance with WAC 251-19-122 Written notification of temporary appointment and the conditions relating to the director's remedial action decision and

exceptions which may be taken; WAC 251-19-030 Appointment—Provisional, repealed, unnecessary due to other changes; WAC 251-19-040 Appointment—Emergency, repealed, unnecessary due to other changes; WAC 251-19-120 Temporary appointment, new time standards proposed in other rules are included in this rule for consistency. Requires director approval of a procedure for controlling and monitoring exempt positions. Provides for petitioning the director for exceptions to these requirements which will be reviewed by the board; and WAC 251-19-122 Written notification of temporary appointment, to specify elements necessary to properly inform temporary employees about the conditions of their employment.

**Reasons Supporting Proposed Action:** The board, because of its experience in adjudicating remedial action appeals, has determined that rules are necessary to accomplish the following: Eliminate the pattern employee, i.e., the so-called exempt employee who works above and below half-time continuously; ensure that temporary employees exempt from HEPB rules are informed of the conditions of their employment when they are hired and as the conditions change; and establish a time standard easier to understand and apply than the current standards in order to control and monitor temporary employment. Accordingly, the board has directed staff to draft rules to address these concerns.

**Agency Personnel Responsible for Drafting, Implementation and Enforcement:** John A. Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, 234-3730 scan or 753-3730.

**Person or Organization Proposing Rule, and Whether Public, Private or Governmental:** Higher Education Personnel Board staff, governmental.

**Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters:** Not the result of federal law or state or federal court action.

#### NEW SECTION

**WAC 251-24-200 HIV AND AIDS TRAINING FOR EMPLOYEES** (1) The following categories are descriptive of job-related tasks which have a substantial likelihood of coming in contact with human immunodeficiency virus (HIV) and/or acquired immunodeficiency syndrome (AIDS) virus:

(a) All procedures or other job-related tasks that involve an inherent potential for mucous membrane or skin contact with blood, body fluids, or tissues, or a potential for spills or splashes of them.

(b) The normal work routine involves no exposure to blood, body fluids, or tissues, but exposure or potential exposure may be required as a condition of employment.

(2) Each institution which employs persons who, in the course of their employment, meet category (1)(a) or (b) above shall:

(a) Provide or arrange for those employees to receive appropriate education and training on the prevention, transmission and treatment of HIV and AIDS;

(i) Job specific training shall be provided to law enforcement employees;

(ii) Job specific training shall be provided to health care workers, including those with responsibilities for laboratory work and analysis, maintenance and cleanup, and HIV/AIDS related research;

(b) Use educational material and infection control standards recommended by the office on HIV/AIDS; and

(c) Report such training in accordance with WAC 251-24-010(2).

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

**WAC 251-24-030 TRAINING AND DEVELOPMENT PROGRAMS – CONTENTS** Each institution will develop and maintain on file with the board (subject to approval by the director) an employee training and development plan that provides as a minimum:

- (1) The policy and objectives of the institution concerning training and development programs;
- (2) The institution's policy regarding training program expenses;
- (3) Identification of the person(s) responsible for employee training and development programs;
- (4) Provision for the identification and appraisal of training and development needs;
- (5) The identification of proposed training activities in the following areas:
  - (a) New employee orientation;
  - (b) Functional training, such as in accounting, data processing, office administration and job skills;
  - (c) System training, such as affirmative action, labor relations and safety;
  - (d) Professional/technical training;
  - (e) Management and organizational development;
  - (f) The institution's off-hour training or continuing education program;
  - (g) Job specific training in the prevention, transmission and treatment of HIV and AIDS for those employees who have a substantial likelihood of exposure to the human immunodeficiency virus and/or acquired immunodeficiency syndrome;
- (6) Provision specifying the manner of selecting employees for training or development programs;
- (7) Provision for training records of employee participation;
- (8) Provision for training and upgrading of skills of women, past permanent employees returning from separation as set forth in WAC 251-10-070 and members of racial or ethnic minority groups as part of the institution's affirmative action program, including special training programs to achieve corrective action for underutilization of minority or female employees;
- (9) Involvement of a representative group of employees in the development of the institution's training policy and plans;
- (10) Provision for evaluation of training and development programs;
- (11) The criteria by which the institution may provide employees the opportunity to attend class instruction in academic session during regular working hours;
- (12) The institution's policy regarding release time during work hours for training course attendance.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

**WAC 251-01-077 CONSECUTIVE CALENDAR MONTHS.** A span of time which begins on the first day of the first month in the sequence and ends on the last day of the last month in the sequence.

NEW SECTION

**WAC 251-01-078 CONSECUTIVE MONTHS.** A span of time which begins with the effective date of an action and ends on the day proceeding that date any number of months later.

AMENDATORY SECTION (Amending Order 164, filed 12/30/87, effective 2/1/88)

**WAC 251-01-415 TEMPORARY APPOINTMENT.** (1) Work performed in the absence of an employee on leave for: more than six consecutive months in accordance with WAC 251-19-120(2); or

((a) Less than ninety consecutive calendar days (WAC 251-19-120(4));

((b) Ninety or more consecutive calendar days (WAC 251-19-120(2)), or))

((2) (Formal assignment of the duties and responsibilities of a higher level class for a period of less than ninety consecutive calendar days)) Performance of work which does not exceed 1050 hours in any 12 consecutive month period from the original date of hire in accordance with WAC 251-04-040(5); or

((Performance of extra work required at a work load peak, a special project, or a cyclic work load which does not exceed one hundred seventy-nine days consecutive calendar days)) Formal assignment of the duties and responsibilities of a higher level class for a period of less than six consecutive months.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 170, filed 7/12/88)

**WAC 251-04-040 EXEMPTIONS.** The following classifications, positions, and employees of higher education institutions/related boards are hereby exempted from coverage of this chapter.

(1) Members of the governing board of each institution/related board; all presidents, vice presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; executive heads of major administrative or academic divisions employed by institutions of higher education; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington.

(2) Students employed by the institution at which they are enrolled (or related board) and who either:

(a) Work five hundred sixteen hours or less in any six consecutive months, exclusive of hours worked in a temporary position(s) during the summer and other breaks in the academic year, provided such employment does not:

(i) Take the place of a classified employee laid off due to lack of funds or lack of work; or

(ii) Fill a position currently or formerly occupied by a classified employee during the current or prior calendar or fiscal year, whichever is longer;

(b) Provided further that the hour limitation shall not apply to student employees who were hired before July 30, 1984, with an understanding of working more than the stated number of hours monthly, and also with an understanding of such employment continuing for the duration of their education. However, this exception shall apply only to students who are continuously enrolled and shall not extend beyond September 1, 1988. Students covered by this exception shall be identified to the director;

(c) Are employed in a position directly related to their major field of study to provide training opportunity; or

(d) Are elected or appointed to a student body office or student organization such as student officers or student news staff members.

(3) Students participating in a documented and approved programmed internship which consists of an academic component and work experience.

(4) Students employed through the state or federal work/study programs.

(5) Persons employed ((in a position scheduled for less than twenty hours per week or on an intermittent employment schedule)) to work 1050 hours or less in any 12 consecutive month period from the original date of hire. Such an appointment may be subject to remedial action in accordance with WAC 251-12-600, if the number of hours worked exceeds 1050 hours in any 12 consecutive month period from the original date of hire, exclusive of overtime or work time as described in WAC 251-04-040(2).

((6) Nonclassified employees filling positions identified in subsections (1)(a) and (3) of the definition of "temporary appointment" in WAC 251-01-415.))

((7) Part-time professional consultants retained on an independent part-time or temporary basis such as physicians, architects, or other professional consultants employed on an independent contractual relationship for advisory purposes and who do not perform administrative or supervisory duties.

((8) The director, his confidential secretary, assistant directors, and professional education employees of the state board for community college education.

((9)) (8) The personnel director of the higher education personnel board and his confidential secretary.

((+0)) (9) The governing board of each institution/related board may also exempt from this chapter, subject to the employee's right of appeal to the higher education personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic art or publications activities requiring prescribed academic preparation or special training, and principal assistants to executive heads of major administrative or academic divisions, as determined by the higher education personnel board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trades services may be exempted by the higher education personnel board under this provision.

((+1)) (10) Any employee who believes that any classification should or should not be exempt, or any employee because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080, et seq.

((+2)) (11) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the board may approve one extension of no more than four years; and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982. Application for return to classified service must be made not later than thirty calendar days following the conclusion of the exempt appointment.

((+3)) (12) When action is taken to convert an exempt position to classified status, the effect upon the incumbent of such position shall be as provided in WAC 251-19-160.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 251-07-100 TEMPORARY APPOINTMENT RECORDS.** Each institution shall maintain information for temporary employees as specified in WAC 251-19-122. At least bi-quarterly each institution shall produce a record which shows the cumulative hours worked for each temporary employee. This record shall be kept on file in the personnel office and shall be made available to the HEPB staff upon request.

#### AMENDATORY SECTION (Amending Order 92 [174], filed 11/24/81 [11/1/88])

**WAC 251-12-600 REMEDIAL ACTION.** ((When it has been determined that an individual has served six consecutive months in an institution in a position subject to the civil service but whose appointment by the institution has not been in accordance with the provisions of these rules, and the employee was not a party to the willful disregard of the rules, the director may take such appropriate action as to confer permanent status, set provision for salary maintenance, establish appropriate seniority, determine accrual of benefits, and such other actions as may be determined appropriate pursuant to the best standards of personnel administration. The order of the director shall be final and binding unless written exceptions detailing the specific items of the order to which exception is taken are filed with the board within thirty calendar days of the date of service of the order. The board will review the exceptions and may hold a hearing prior to modifying or affirming the director's order.))

(1) The director may take remedial action when it is determined that the following conditions exist.

(a) The hiring institution has made an appointment that does not comply with HEPB rules.

(b) The employee has worked in one or more positions for more than 1050 hours in any 12 consecutive month period since the original hire date. (These hours do not include overtime or work time as described in WAC 251-04-040(2).)

(c) The position or positions are subject to civil service.

(d) The employee has not taken part in any willful failure to comply with these rules.

(2) Remedial action includes the power to confer permanent status, set salary, establish seniority, and determine benefits accrued from the seniority date. Remedial action also includes other actions the director may require to meet the highest personnel standards.

(3) If the institution has complied with WAC 251-19-122, the employee must:

(a) Submit any request for remedial action in writing, and  
(b) File the request within 30 calendar days after the effective date of the action appealed.

(4) The director's order for remedial action shall be final and binding unless exceptions are filed with the board within 30 calendar days after the order is served. Exceptions must comply with WAC 251-12-085 (1) through (5). The board will review all exceptions. The board may hold a hearing before affirming, modifying, or reversing the director's order.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### REPEALER

WAC 251-19-030 APPOINTMENT—PROVISIONAL.  
WAC 251-19-040 APPOINTMENT—EMERGENCY.

#### AMENDATORY SECTION (Amending Order 165, filed 12/30/87, effective 2/1/88)

**WAC 251-19-120 APPOINTMENT—TEMPORARY.** (1) Temporary appointment may be made only to meet employment conditions set forth in the definition of "temporary appointment" in WAC 251-01-415.

(2) Temporary appointment to perform work in the absence of an employee on leave for ((ninety or more consecutive calendar days)) more than six consecutive months shall be made following certification from appropriate eligible lists of eligibles who have indicated willingness to accept such temporary appointment. Employees appointed to classified positions in accordance with this subsection are covered by chapter 28B.16 RCW and Title 251 WAC. Temporary appointment made in accordance with this subsection is not limited to the ((one hundred seventy-nine consecutive calendar day)) 1050 hours in any 12 consecutive month period from the original date of hire limitation identified in WAC 251-01-415 ((3))(2) and ((subsection (5) of this section)) WAC 251-12-600.

(3) The employing official may temporarily assign a classified employee the duties and responsibilities of a higher-level class for a period of less than ((ninety consecutive calendar days)) six consecutive months. The salary shall be determined per WAC 251-08-110.

(4) Temporary appointment to positions identified in the definition of "temporary appointment" in WAC 251-01-415 (1)((a)), (2), and (3) may be made without regard to the rules governing appointment.

((5)) Upon prior approval of the director, a temporary appointment to a position identified in WAC 251-01-415 (1)(a) may be extended beyond the eighty-ninth day, however the total period of appointment shall not exceed one hundred seventy-nine consecutive calendar days.))

((6)) (5) A permanent classified employee accepting temporary appointment to a position identified in the definition of "temporary appointment" in WAC 251-01-415 (1)((a)), (2), and (3)(;)) shall retain and continue to receive all rights and benefits provided by these rules for the duration of the temporary appointment.

((7)) (6) At the conclusion of a temporary appointment ((of less than one hundred eighty consecutive calendar days)) made in accordance with these rules, a permanent employee shall have the right to revert to his/her former position or to an equivalent position.

((8)) (7) Each institution shall ((file with the director)) develop for director approval a procedure which indicates ((their)) its system for controlling and monitoring exempt positions as identified in RCW 28B.16.040(2).

(8) An institution may petition the director in writing for approval of exceptions to these requirements. The director will annually review the appropriateness of exceptions granted and advise the board.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 251-19-122 WRITTEN NOTIFICATION OF TEMPORARY APPOINTMENT.** (1) All temporary employees shall be

notified in writing of the conditions of their employment prior to the commencement of each appointment and/or upon any subsequent change to the condition of their employment.

- (2) The written notification shall contain the following information:
  - (a) The reason for the temporary appointment (see WAC 251-01-415 (1)(2)(3));
  - (b) The hours of work and the hourly rate of pay;
  - (c) The duration of appointment as adjusted by any current or former temporary appointments. The duration shall be expressed as a starting and expected end date;
  - (d) The name of the employee's supervisor;
  - (e) A statement regarding the receipt or non-receipt of benefits. If the employee is to receive benefits, the statement shall include which benefits are to be received;
  - (f) The expected status of the employee within the HEPB system upon completion of the appointment;
  - (g) The signature of the personnel officer and/or authorizing hiring official;
  - (h) The signature of the employee verifying receipt of the written notification;
  - (i) An identification of any current and/or previously held temporary positions at the institution.
  - (j) A statement of appeal rights for those positions in which a violation of WAC 251-01-415 may result in permanent status.

#### **WSR 89-06-046**

#### **NOTICE OF PUBLIC MEETINGS HUMAN RIGHTS COMMISSION**

[Memorandum—February 27, 1989]

The Washington State Human Rights Commission will hold its next regular commission meeting in Monroe. The meeting on March 22, will be held at the Public Utility District Auditorium, 120 East Fremont Street, Monroe, beginning at 7:00 p.m. and will be a training and work session. The regular business meeting will be held at the City Council Chambers, City of Monroe, 606 West Main, Monroe, beginning at 9:30 a.m. on March 23. The afternoon session on March 23, will be held at the Washington State Reformatory, Park Place, Monroe, and will include a tour of the facility.

#### **WSR 89-06-047**

#### **PROPOSED RULES BOARD OF HEALTH**

[Filed February 28, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning vital records forms, repealing WAC 248-124-990, 248-124-99001, 248-124-99002, 248-124-99003 and 248-124-99004;

that the agency will at 9:30 a.m., Wednesday, April 12, 1989, in the Pine Room of the Westwater Inn, Evergreen Park Drive S.W., Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 70.58 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 12, 1989, State Board of Health,

1112 South Quince, Olympia, WA 98504, mailstop ET-23, (206) 586-0399.

Dated: February 27, 1989  
By: Paul Trause  
Deputy Secretary  
for Programs

#### **STATEMENT OR PURPOSE**

These statements are filed pursuant to RCW 34.04.045.

Re: Repealing WAC 248-124-990, 248-124-99001, 248-124-99002, 248-124-99003 and 248-124-99004.

Repeal of this rule is necessary to eliminate out-of-date forms.

Statutory Authority: Chapter 70.58 RCW.

Summary of the Rule Change: They are sufficiently described in the text of WAC 248-124-010 and 248-124-160.

Person or Persons Responsible for Drafting, Implementation, and Enforcement of the Rule: Sharon George, Program Manager, Division of Health, phone 586-2774.

Rules were proposed by DSHS, Division of Health.

These rules are not necessary as a result of federal law, federal court decision, or state court decision.

#### **REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 248-124-990 FORM—CERTIFICATE OF LIVE BIRTH.  
WAC 248-124-99001 FORM—CERTIFICATE OF DEATH.  
WAC 248-124-99002 FORM—CERTIFICATE OF

#### **MARRIAGE.**

WAC 248-124-99003 FORM—CERTIFICATE OF ABSOLUTIVE DIVORCE OR ANNULMENT.

WAC 248-124-99004 FORM—CERTIFICATE OF FETAL DEATH.

#### **WSR 89-06-048**

#### **PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Public Assistance)**

[Filed February 28, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning alcohol detoxification program, amending chapter 388-40 WAC and adding new WAC 388-40-091;

that the agency will at 10:00 a.m., Tuesday, April 4, 1989, in the OB-2 Auditorium, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 5, 1989.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.08 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner  
Office of Issuances  
Department of Social and Health Services  
Mailstop OB-33H  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 21, 1989. The meeting site is in a location which is barrier free.

Dated: February 24, 1989  
By: Leslie F. James, Director  
Administrative Services

#### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

The Following Sections are Affected by this Revision:  
WAC 388-40-030, 388-40-050, 388-40-080, 388-40-090, 388-40-091 and 388-40-100.

Purpose of These Rule Changes: To implement provisions of SHB 1599 which was passed and signed into law with an emergency clause on February 17, 1989. This bill appropriates emergency funds allowing the Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) program to continue to operate, on a limited basis, through the end of the biennium. These changes will become effective by emergency rule adoption February 24, 1989.

These rule changes are necessary for implementing the statute and to prevent shutting down all ADATSA services effective February 28 due to lack of funds.

Statutory Authority: Chapter 74.50 RCW as amended by SHB 1599 and RCW 74.08.090.

These Rule Changes will have the Following Effect: They require the department to impose treatment and shelter caseload ceilings as outlined in each service appropriation. They establish a system whereby certain classes of clients have priority access to treatment when waiting lists develop.

Person Responsible for Drafting, Implementation and Enforcement of These Rules: Cecile Anderson, Community Services Program Manager, Bureau of Alcohol and Substance Abuse, phone 753-5866, 234-5866 scan, mailstop OB-44W.

These rules are not necessary as a result of federal law or federal or state court action.

#### AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-030 ADATSA SERVICES. (1) The department shall provide ADATSA services to the extent provided for by legislative appropriation and only to the extent each service conforms to all conditions and limitations set by the department. The department shall establish treatment and shelter caseload ceilings and eligibility standards as needed to assure the program operates within expenditure and caseload limits.

(2) Persons who qualify for the ADATSA program ((shall)) may be eligible for:

- (a) A continuum of alcohol/drug treatment services and support (((as))) described ((in)) under WAC 388-40-090((;)) and 388-40-095; or
- (b) Shelter services (((as))) described ((in)) under WAC 388-40-100.
- ((2))) (3) Recipients of ADATSA are eligible for medical care services (((as))) described ((in)) under WAC 388-86-120.

#### AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-050 MEDICAL ELIGIBILITY REQUIREMENTS. (1) If otherwise eligible, ADATSA assistance, available within the current appropriation, shall be granted to alcoholics and drug addicts whose chemical dependency is severe enough to render them incapable of gainful employment.

(2) Incapacity based on alcoholism or drug addiction shall be determined by a department designated chemical dependency assessment center. The assessment center is the department's sole source of medical evidence required for the diagnosis and evaluation of alcoholism/drug addiction and its effects on employability.

(a) The department shall require such an assessment in writing for all ADATSA applicants.

(b) The costs of assessments needed to determine eligibility shall be paid for by the department.

#### AMENDATORY SECTION (Amending Order 2740, filed 12/21/88)

WAC 388-40-080 ADATSA ASSESSMENT CENTERS—ROLE. (1) ADATSA assessment centers shall:

- (a) Be responsible for diagnostic evaluation and placement; and
- (b) Not be responsible for providing direct treatment.

(2) The assessment center shall, in accordance with standards set forth under chapter 275-19 WAC, conduct a face-to-face diagnostic assessment of the applicant to:

(a) Determine ((incapacity)) if the applicant is incapacitated from gainful employment based on alcoholism or drug addiction; and

(b) Determine whether the incapacitated applicant is willing and able to undergo a course of treatment or desires shelter or medical assistance only.

(3) Once the applicant's financial and medical eligibility is established, the assessment center shall:

(a) Determine if treatment or shelter is available, subject to caseload ceilings established by the department;

(b) Arrange all placements into treatment and/or shelter facilities, taking into account the treatment priorities set forth under WAC 388-40-091;

((e))) (c) Provide the applicant with written notification of the applicant's right to return to the CSO at any time while receiving ADATSA treatment or shelter assistance. This includes, but is not limited to, those situations where the ADATSA recipient is discharged from any inpatient, recovery house, outpatient, or shelter facility providing services under contract to the department;

((e))) (d) Provide the applicant with written notification of the applicant's right to request a fair hearing to challenge any action which affects eligibility for ADATSA treatment or shelter assistance;

((d))) (e) Provide ongoing case monitoring of treatment and/or shelter services; ((and))

((e))) (f) Notify the community services office promptly of all placement or eligibility status changes.

#### AMENDATORY SECTION (Amending 2635, filed 6/21/88)

WAC 388-40-090 ADATSA TREATMENT MODALITIES—DESCRIPTION OF SERVICES, REQUIREMENTS, AND LIMITATIONS. (1) The department shall offer ADATSA treatment services to eligible applicants/recipients incapacitated by alcoholism or drug addiction, subject to availability defined under WAC 388-40-030(1) and priority classifications set forth under WAC 388-40-091.

(2) The department shall limit treatment services to a ((total)) maximum of six months in a twenty-four month period. The twenty-four month period begins on the date of initial entry into treatment.

(3) The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement, and treatment needs in accordance with RCW 70.96A.100(2) and the procedures in WAC 275-19-185.

(4) Treatment may consist of residential and/or outpatient services.

(5) The department shall limit residential treatment to the following services:

(a) Intensive inpatient treatment, not to exceed thirty days per admission;  
 (b) Recovery house treatment, not to exceed sixty days per admission;  
 (c) Extended care recovery house treatment, not to exceed ninety days;  
 (d) Long-term care residential treatment, not to exceed one hundred eighty days;  
 (e) Drug residential treatment, not to exceed one hundred eighty days.  
 (6) An applicant/recipient ((shall)) may qualify for up to ((six)) three months of direct outpatient treatment services if the assessment center determines ((that)) residential treatment is not necessary or appropriate. The assessment center shall base this determination on clinical or medical factors which would indicate the likelihood that an applicant/recipient would succeed in a less-structured primary treatment modality. Such factors may include an assessment of former treatment history, the number of detoxification admissions, and the chronicity, and degree of incapacity of the applicant/recipient. The assessment center shall also consider social factors such as the availability of social support systems, family support, and stable living arrangement when evaluating the individual's ability to benefit from primary outpatient treatment.

(7) A recipient seeking ninety days or more of continuous, direct outpatient treatment shall return to the assessment center after seventy-five days of outpatient treatment for re-evaluation. The assessment center shall determine:

- (a) Whether the recipient remains incapacitated; and
- (b) If more than ninety days of outpatient treatment is necessary or appropriate.

Availability of additional outpatient treatment shall be based upon the priorities under WAC 388-40-091.

(8) When outpatient treatment caseloads exceed one thousand seventy-five clients, applicants for outpatient treatment may be placed on a waiting list.

(9) ADATSA recipients who withdraw from treatment for any reason shall be subject to termination and shall reapply and/or be referred to the assessment center if they wish further ADATSA services.

(a) Recipients who drop out of treatment in the intensive inpatient phase may be required to repeat this phase.

(b) Recipients who drop out of treatment during the recovery house or outpatient phase may be required to return to the modality from which they dropped out or may be required to enter intensive inpatient treatment if, in the clinical judgment of the assessment center, a more structured form of treatment seems warranted. The assessment center shall refer to inpatient or residential treatment those recipients who demonstrate an inability to remain abstinent in outpatient treatment.

(c) Recipients who have been absent from inpatient treatment or other residential services for less than seventy-two hours may, at full discretion of the providing program director, reenter that program without being considered as having dropped out and without being required to reapply for readmittance through the assessment center.

## NEW SECTION

WAC 388-40-091 AVAILABILITY OF TREATMENT—PRIORITY GROUPS. (1) Due to limited availability of treatment, the department shall provide residential and/or outpatient treatment services to eligible applicants/recipients under the following descending list:

- (a) Pregnant women;
- (b) Persons referred through the child protective services program;
- (c) Adults residing in households with children;
- (d) Persons receiving ADATSA shelter assistance, or other financial or medical assistance;
- (d) Persons of the above-priority classes who require additional treatment; and
- (f) Other applicants.

(2) Whenever waiting lists develop, the assessment center shall make treatment placements in order of priority.

(3) The department shall make reductions in outpatient caseload based on the priorities under subsection (1) of this section in inverse order if reductions in outpatient caseloads are necessary to meet the caseload limit.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

## AMENDATORY SECTION (Amending Order 2740, filed 12/21/88)

WAC 388-40-100 ADATSA SHELTER SERVICES. (1) Subject to the provisions under WAC 388-40-030(1), the department shall provide shelter services to eligible ADATSA applicants/recipients:

- (a) Who refuse treatment; or
- (b) Who have exhausted their six months of treatment in a twenty-four month period; or
- (c) ((Who are)) In temporary need of shelter pending placement into a treatment facility.

(2) Eligible applicants/recipients wishing shelter services shall have their choice of:

- (a) Placement by the assessment center into a department-contracted shelter facility which provides room and board; or
- (b) A shelter assistance payment, through a protective payee, for independent housing and basic needs.

(3) The department shall provide assistance for independent housing only to recipients who will be residing in a permanent residential structure. These recipients must also have a deed of purchase, rental agreement, or other verifiable written agreement between themselves and the person or entity to whom they are obligated for shelter costs or from whom they are receiving supplied shelter.

(4) The department shall base the amount of assistance for independent housing and basic needs on the appropriate payment standard in WAC 388-29-100 (3)(a) or (b). For recipients in a contracted shelter facility, the department shall provide an allowance for clothing and personal incidentals based on the standard in WAC 388-29-130.

(5) Recipients receiving contracted shelter services who subsequently leave shelter without notice for more than seventy-two hours, or are discharged from the facility for disciplinary reasons, shall be subject to termination. Upon reapplication and/or re-referral, the assessment center shall again offer treatment and/or shelter as appropriate.

(6) When the projected average shelter caseload, during the period from January 1, 1989 through June 30, 1989, exceeds one thousand two hundred and thirteen clients per month, applicants for shelter assistance shall be placed on a waiting list.

(7) The department shall make reductions in shelter caseloads based on the following priorities in descending order if reductions in shelter caseloads are necessary to meet the caseload limit. The priority groups are persons who have received shelter assistance longer than:

- (a) Six months or longer;
- (b) Five months or longer;
- (c) Four months or longer;
- (d) Three months or longer;
- (e) Two months or longer; or
- (f) One month or less.

(8) A client placed on a shelter waiting list may return to the community services office to determine if they are also eligible for financial assistance for physical or mental incapacities.

## WSR 89-06-049 ADOPTED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Institutions)

[Order 2767—Filed February 28, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd WAC 275-27-020 Definitions.  
 New WAC 275-27-026 Eligibility for services.  
 Amd WAC 275-27-030 Determination of eligibility.

This action is taken pursuant to Notice No. WSR 89-02-031 filed with the code reviser on December 30, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 71.20.070 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 71.20 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 27, 1989.

By Leslie F. James, Director  
Administrative Services

AMENDATORY SECTION (Amending Order 2124, filed 7/18/84)

WAC 275-27-020 DEFINITIONS. (1) (("Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior manifested before age eighteen and exhibiting an intelligence quotient at or below sixty-seven using Stanford-Binet, or at or below sixty-nine using Wechsler. PROVIDED, That other appropriate analogous scale or scales used receives the prior approval of the secretary)) "Best interest" includes, but is not limited to, individual client program elements designed to:

- (a) Achieve or maintain economic self-support;
- (b) Achieve or maintain self-sufficiency;
- (c) Prevent or remedy neglect, abuse, or exploitation of individuals unable to protect their own interest;
- (d) Preserve, rehabilitate, or reunite families; and
- (e) Prevent or reduce inappropriate institutional care by providing the least restrictive setting, such as community-based services, home-based services, or other forms of less-intensive service, to meet the individual's medical and personal needs.

(2) "Department" means the department of social and health services of the state of Washington.

(3) (("Secretary" means the secretary of the department of social and health services.)

(4) "Division" means the division of developmental disabilities of the department of social and health services.

(5)) "Director" means the director of the division of developmental disabilities.

(4) "Division" means the division of developmental disabilities of the department of social and health services.

(5) "Emergency" means a sudden, unexpected occurrence demanding immediate action.

(6) (("Respite care" means temporary services provided to a developmentally disabled individual and/or the individual's family on either an emergency or planned basis without which the individual may need a more dependent program.)

(7)) "Individual" means the person for whom division services are requested.

((8))) (7) "Informed consent" means an agreement obtained from an individual or his or her authorized representative, for such individual's participation in an activity. The following information is necessary to informed consent:

(a) An explanation of the procedures to be followed including an identification of those which are experimental;

(b) A description of the attendant discomforts and risks;

(c) A description of the benefits to be expected;

(d) A disclosure of appropriate alternative procedures;

(e) An offer to answer any inquiries concerning the procedures; and

(f) Instruction that consent may be withdrawn and participation discontinued at any time.

(8) "Intelligence quotient score" means a full scale score on the Wechsler, or the intelligence quotient score on the Stanford-Binet or the Leiter International Performance Scale.

(9) (("Residential programs" means those programs providing domiciliary care and other services, including, but not limited to, state residential facilities, group homes, skilled nursing facilities, intermediate care facilities, congregate care facilities, boarding homes, children's foster homes, adult family homes, and group training homes)) "More dependent program" means a program providing less opportunity for numbers and variety of community contacts for the individual or requiring more hours of staff supervision/training/support for the individual.

(10) "Nonresidential programs" means programs including, but not limited to, county-funded habilitation services.

(11) (("Emergency" means a sudden, unexpected occurrence demanding immediate action)) "Residential programs" means those programs providing domiciliary care and other services, including, but not limited to, state residential facilities, group homes, skilled nursing facilities, intermediate care facilities, congregate care facilities, boarding homes, children's foster homes, adult family homes, and group training homes.

(12) (("Best interest" includes, but is not limited to, individual client program elements designed to:

- (a) Achieve or maintain economic self-support;
- (b) Achieve or maintain self-sufficiency;
- (c) Prevent or remedy neglect, abuse, or exploitation of individuals unable to protect their own interest;
- (d) Preserve, rehabilitate, or reunite families; and

(e) Prevent or reduce inappropriate institutional care by providing the least restrictive setting, such as community-based services, home-based services, or other forms of less-intensive service, to meet the individual's medical and personal needs)) "Respite care" means temporary services provided to a developmentally disabled individual and/or the individual's family on either an emergency or planned basis without which the individual may need a more dependent program.

(13) (("More dependent program" means a program providing less opportunity for numbers and variety of community contacts for the individual or requiring more hours of staff supervision/training/support for the individual)) "Secretary" means the secretary of the department of social and health services or the secretary's designee.

**NEW SECTION**

**WAC 275-27-026 ELIGIBILITY FOR SERVICES.** (1) A developmental disability is a condition which meets all of the following:

(a) A condition defined as mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition as described under WAC 275-27-026;

(b) Originates before the individual reaches eighteen years of age;

(c) Is expected to continue indefinitely; and

(d) Results in a substantial handicap.

(2) Mental retardation is a condition resulting in significantly subaverage general intellectual functioning as evidenced by:

(a) A diagnosis of mental retardation documented by a licensed psychologist or certified school psychologist; and

(b) A substantial handicap when the individual has an intelligence quotient score of more than two standard deviations below the mean using the Stanford-Binet, Wechsler, or Leiter International Performance Scale; and

(c) An intelligence quotient score which is not:

(i) Expected to improve with treatment, instruction, or skill acquisition above the established level; or

(ii) Attributable to mental illness or other psychiatric condition; and

(d) Meeting the requirements of developmental disability under subsection (1)(b) and (c) of this section.

(3) Cerebral palsy is a condition evidenced by:

(a) A diagnosis of cerebral palsy by a licensed physician; and

(b) A substantial handicap when, after forty-eight months of age:

(i) An individual needs direct physical assistance in two or more of the following activities:

- (A) Eating,
- (B) Dressing,
- (C) Bathing,
- (D) Toileting, or
- (E) Mobility; or

(ii) An individual meets the requirements under subsection (6)(b) of this section; and

(c) Meeting the requirements under subsection (1)(b) and (c) of this section.

(4) Epilepsy is a condition evidenced by:

(a) A diagnosis of epilepsy by a board-eligible neurologist, including documentation the condition is chronic; and

(b) The presence of partially controlled or uncontrolled seizures; and

(c) A substantial handicap when the individual:

(i)(A) Requires the presence of another individual to monitor the individual's medication, and is certified by a physician to be at risk of serious brain damage/trauma without direct physical assistance from another individual; or

(B) In the case of individuals eighteen years of age or older only, requires the presence of another individual to monitor the individual's medication, and is unable to monitor the individual's own medication resulting in risk

of medication toxicity or serious dosage side effects threatening the individual's life; or

(ii) Meets the requirements under subsection (6)(b) of this section; and

(d) Meeting the requirements under subsection (1)(b) and (c) of this section.

(5) Autism is a condition evidenced by:

(a) A diagnosis of autism by a board-eligible psychiatrist or licensed clinical psychologist; and

(b) A substantial handicap shown by:

(i) The presence of significant deficits of social and communication skills and marked restriction of activities of daily living, as determined by one or more of the following persons with at least one year's experience working with autistic individuals:

- (A) Licensed psychologists;
- (B) Psychiatrists;
- (C) Social workers;
- (D) Certified communication disorder specialists;
- (E) Registered occupational therapists;
- (F) Case managers;
- (G) Certificated educators; and
- (H) Others; or

(ii) Meeting the requirements under subsection (6)(b) of this section; and

(c) Meeting the requirements under subsection (1)(b) and (c) of this section.

(6) Another neurological or other condition closely related to mental retardation, or requiring treatment similar to that required for individuals with mental retardation is a condition evidenced by:

(a)(i) Damage to the central nervous system as diagnosed by a licensed physician; and

(ii) A substantial handicap when, after forty-eight months of age, an individual needs direct physical assistance in two or more of the following activities:

- (A) Eating,
- (B) Dressing,
- (C) Bathing,
- (D) Toileting, or
- (E) Mobility; and

(iii) An intelligence quotient score of at least one and one-half standard deviations below the mean, using the Wechsler Intelligence Scale, the Stanford-Binet, or the Leiter International Performance Scale; and

(iv) Meeting the requirements under subsection (1)(b) and (c) of this section; or

(b) A condition evidenced by:

(i) An intelligence quotient score at least one and one-half standard deviations below the mean, using the Wechsler Intelligence Scale, the Stanford-Binet, or the Leiter International Performance Scale. If the individual's intelligence score is higher than one and one-half standard deviations below the mean, then current or previous eligibility for participation in special education, under WAC 392-171-376 through 392-171-451, shall be demonstrated. Such participation shall not currently or at eighteen years of age be solely due to one or more of the following:

- (A) Psychiatric impairment;
- (B) Serious emotional/behavioral disturbance; or
- (C) Orthopedic impairment; and

(ii) A substantial handicap when a broad independence score of at least two standard deviations or more below the mean on the adaptive behavior section of the Inventory for Client and Agency Planning (ICAP) is obtained, such assessment tool being administered at least every twenty-four months; and

(iii) Is not attributable to mental illness, personality and behavioral disorders, or other psychiatric conditions; and

(iv) Meets the requirements under subsection (1)(b) and (c) of this section; or

(c) A child under six years of age at risk of developmental disability, as measured by developmental assessment tools and administered by qualified professionals, showing a substantial handicap as evidenced by one of the following:

(i) A delay of at least twenty-five percent of the chronological age in one or more developmental areas between birth and twenty-four months of age; or

(ii) A delay of at least twenty-five percent of the chronological age in two or more developmental areas between twenty-five and forty-eight months of age; or

(iii) A delay of at least twenty-five percent of the chronological age in three or more developmental areas between forty-nine and seventy-two months of age; and

(iv) Such eligibility shall be subject to review at any time, but at least at thirty-six months of age and at least seventy-two months of age;

(v) Developmental areas as described in subsection (6)(c) of this section are:

- (A) Fine or gross motor skills;
- (B) Self-help skills;

(C) Expressive and receptive communication skills, including American sign language skills;

- (D) Social skills; and

- (E) Cognitive, academic, or problem-solving skills.

(vi) Qualified professionals, as described in subsection (6)(c) of this section, include, but are not limited to, the following professionals with at least one year's experience and training in the field of child development and preferably in the area of developmental disabilities:

- (A) Licensed physicians;
- (B) Licensed psychologists;
- (C) Certified communication disorder specialists;
- (D) Registered occupational therapists;
- (E) Licensed physical therapists;
- (F) Case managers;
- (G) Registered public health nurses; and
- (H) Educators.

(vii) Any standardized developmental assessment tool may be used if the tool:

(I) Is reasonably reliable and valid by professional standards; and

(II) Demonstrates the information required to make a determination of the developmental delay; or

(d) A child under six years of age having a diagnosis of Down's Syndrome.

#### AMENDATORY SECTION (Amending Order 2124, filed 7/18/84)

WAC 275-27-030 DETERMINATION OF ELIGIBILITY. (1) The department shall determine an individual ((shall be)) eligible for services upon application ((pursuant to WAC 275-27-040, provided the division has determined the individual is developmentally disabled. Eligibility criteria to determine developmental disability shall be:

(a) Mental retardation, cerebral palsy, epilepsy, autism; or

(b) Auditory impairment, visual impairment, or a condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals; and

(c) Having the following additional characteristics:

(i) Originates before such person reaches age eighteen; and

(ii) Has continued or can be expected to continue indefinitely; and

(iii) Constitutes a substantial handicap to the individual's ability to function normally in society)) if the individual meets developmental disability criteria as defined under WAC 275-27-026.

(2) ((The director or designee may authorize exception to criteria specified in subsection (1) of this section, upon determination there are no other services available and enforcement of such criteria will be extremely detrimental to the health and welfare of the individual)) The department may require appropriate documents substantiating the presence of a developmental disability.

(3) ((Prior to determining whether an individual is eligible for division services, the division may require a supporting affidavit of a physician and/or clinical or certified psychologist certifying the individual is developmentally disabled)) When the department uses or requires the Wechsler Intelligence Test for the purposes of this chapter, the department may consider any standardized Wechsler Intelligence Test as a valid measure of intelligence, assuming a full scale score can be obtained.

(4) ((If the applicant wishes the division to consider documents not on file with the department, then the applicant must sign departmental consent forms authorizing the division to acquire such documents)) If, in the opinion of the testing psychologist, an individual is not able to complete all of the subtests necessary to achieve a full scale score on the Wechsler, the department shall make a professional judgment about the person's intellectual functioning, based upon the information available.

(5) ((Within five working days of the receipt of the completed application and supporting documents, the division shall determine whether the individual is eligible for division services)) When an applicant has a significant hearing impairment, the department may use or require the Leiter International Performance Scale to determine the individual's intelligence quotient for the purposes of WAC 275-27-026.

(6) When an applicant has a significant vision impairment, the department may use or require the Wechsler verbal intelligence quotient score as the intelligence quotient score for the purposes of WAC 275-27-026.

(7) When an Inventory for Client and Agency Planning (ICAP) is required by the department to demonstrate a substantial handicap, the department shall provide or arrange for the administration of the ICAP.

(8) The department shall determine an applicant's eligibility for services within ten working days of receipt of the completed application and supporting documents.

(9) Any documentation the department requires shall be subject to departmental review. The department may also review client eligibility at any time.

(10) The secretary or designee may authorize eligibility under subsection (1) of this section under the following conditions:

(a) To register a child under eighteen years of age who is eligible for medically intensive home care services, under the department's Title XIX Model 50 waiver program; or

(b) To eliminate the department's requirement for documentation of disability prior to eighteen years of age when:

(i) The applicant is otherwise eligible under WAC 275-27-026; and

(ii) The department and applicant are unable to obtain any documentation of disability originating prior to eighteen years of age; and

(iii) The department has determined the applicant's condition occurred prior to eighteen years of age.

**WSR 89-06-050**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Health)**  
**(Public Assistance)**  
[Order 2768—Filed February 28, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 248-14-270 Health record service.  
Amd WAC 388-88-095 Placement of patient.  
New WAC 388-88-097 Preadmission screening.

This action is taken pursuant to Notice No. WSR 89-02-030 filed with the code reviser on December 30, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.42.620 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 27, 1989.  
By Leslie F. James, Director  
Administrative Services

**AMENDATORY SECTION** (Amending Order 1872, filed 9/1/82)

**WAC 248-14-270 HEALTH RECORD SERVICE.** There shall be a defined health record service where records are kept in accordance with recognized principles of health record management. All records, policies, and procedures shall be available to authorized representatives of the department for review.

(1) The health record system shall be centralized and:

(a) Have a designated individual exercising responsibility for the system with appropriate training and experience in health record management. This person may require consultation from a qualified health record practitioner such as a registered record administrator or accredited record technician.

(b) Include mechanisms to safeguard records from alteration, loss or destruction, and preserve the confidentiality of each record.

(2) The health record shall:

(a) Be documented promptly and legibly by persons making the observation or providing the service, with date and authentication of each entry. All entries shall be written legibly in ink, typewritten or on a computer terminal. Dictated reports shall be promptly transcribed and included in the record.

(b) Be developed and maintained for each resident receiving care or treatment in the facility.

(c) Contain information obtained upon admission including identifying and sociological data, diagnosis, and medical information as identified ((in)) under WAC 248-14-250 (4)(a) and any identification forms and records from any pre-admission screening and annual resident review (PASARR) required under chapter 388-88 WAC.

(d) Contain information about the resident's daily care including all plans, treatments, medications, observations, teaching, examinations, physician's orders, allergic responses, consents, authorizations, releases, diagnostic reports, and revisions of assessments.

(e) Contain appropriate information if the resident has died including the time and date of death, apparent cause of death, appropriate notification of the physician and relevant others, and the disposition of the body and personal effects.

(3) At the time of discharge, the facility provides those responsible for the resident's postdischarge care with an appropriate summary of information about the discharged patient to ensure the optimal continuity of care.

(4) Health records shall be retained in the nursing home for the time period required by RCW 18.51.300.

If a nursing home ceases operation, the nursing home shall make arrangements prior to cessation, as approved by the department, for preservation of the health records.

(5) A chronological census register shall be maintained, including all admissions, discharges, deaths and

transfers, noting the receiving facility. A daily census shall be kept of the residents not on leave.

(a) A new health record shall be opened when a resident returns to the nursing home from any treatment facility after a stay in excess of five days except for IMR facilities. Current information from the treatment facility shall accompany the resident on return to the nursing home.

(b) Social leaves in excess of twenty-four hours must be noted in the census, but a new health record need not be opened when the resident returns to the nursing home. See WAC 388-88-115.

(6) A master resident index shall be maintained having a reference for each resident including the health record number, if applicable, full name, date of birth, admission date(s), and discharge date(s).

(7) Nursing homes providing outpatient services pursuant to WAC 248-14-295 shall maintain and file records of such services pursuant to that section.

#### AMENDATORY SECTION (Amending Order 1257, filed 12/21/77)

##### WAC 388-88-095 PLACEMENT OF PATIENT.

(1) Nursing home care must be requested by the patient's attending physician or Christian Science practitioner (and the patient's classification must be determined by the designated representative of the department before placement or payment can be approved by the department) prior to admission to a Medicaid certified facility.

(2) A Medicaid certified nursing home shall not admit a private paying individual unless, under WAC 388-88-097, an identification screen is completed and the individual is identified as:

(a) Having neither a mental illness nor a developmental disability; or

(b) Not requiring the pre-admission screening and annual resident review (PASARR) for any of the reasons listed under WAC 388-88-097 (3)(c); or

(c) Likely to have a mental illness or a developmental disability and a PASARR has been completed for the individual.

(3) A Medicaid certified nursing home shall not admit a Medicaid applicant or recipient until an identification screen has been completed, under WAC 388-88-097, and the individual has been identified as:

(a) Having neither a mental illness nor a developmental disability or is identified as not requiring PASARR for any of the reasons listed under WAC 388-88-097 (3)(c), and a department designee has classified the individual as requiring either intermediate nursing care or skilled nursing care, under WAC 388-88-080 and 388-88-083 or 388-88-081; or

(b) Likely to have a mental illness or developmental disability and a department designee has determined through the PASARR process the individual requires nursing home care and does not require active treatment; or

(c) Likely to have a mental illness or developmental disability, and is determined to require nursing home level of care and active treatment, but the individual is

sixty-five years of age or older and chooses to be placed in a nursing home and not to have active treatment.

(4) This section has no application to an individual readmitted to a nursing home after a short stay in an acute care hospital or transferring to a nursing home from another nursing home that is not an institution for the mentally retarded.

(5) There shall be no payment for nursing home services for a Medicaid applicant or recipient until the department has authorized such services.

(6) There shall be no retroactive payment authorized for any Medicaid applicant or recipient admitted to a nursing home in violation of this section.

#### NEW SECTION

##### WAC 388-88-097 PREADMISSION SCREENING.

(1) All individuals requesting admission to a Medicaid-certified nursing facility shall be screened prior to admission to identify whether the individual may have a mental illness or developmental disability. The identification screen shall be performed by the referring hospital, physician, or other referral source or the nursing facility, using a standardized form specified by the department. A copy of the completed form shall be placed in each resident's clinical record.

(2) Any individual identified through the identification screen as likely to have a mental illness or developmental disability and who does not meet an exception as set forth in subsection (3)(c) of this section shall be assessed under the preadmission screening and annual resident review (PASARR).

(3) A Medicaid applicant or recipient shall not be admitted to a Medicaid-certified nursing facility unless:

(a) The individual is identified, through the identification screen, as not having a mental illness or developmental disability, and the department determines the applicant requires intermediate nursing care or skilled nursing care, under WAC 388-88-080 and 388-88-081 or 388-88-083;

(b) The individual is identified, through the identification screen, as likely to have a mental illness or developmental disability, but the department determines through PASARR the individual does not require active treatment; or

(c) The department determines the individual requires intermediate nursing care or skilled nursing care, under WAC 388-88-080 and 388-88-081 or 388-88-083, and the individual is identified as not requiring the PASARR, for one or more of the following reasons:

(i) The individual is discharged from an acute care hospital for convalescence in a nursing home for not more than one hundred twenty days;

(ii) The individual is certified by a physician to be terminally ill as defined under section 1861 (dd)(3)(A) of the Social Security Act;

(iii) The individual is comatose, ventilator dependent, functioning at the brain stem level, or has similar diagnoses significantly impacting the individual's level of functioning and ability to participate in active treatment, such as:

(A) Chronic obstructive pulmonary disease;

(B) Severe Parkinson's disease;

(C) Huntington's Chorea;  
 (D) Amyotrophic lateral sclerosis; or  
 (E) Congestive heart failure; or  
 (iv) The individual has a primary diagnosis of dementia, including Alzheimer's disease or a related disorder.

(d) The individual is identified as likely to have a mental illness or developmental disability, has been determined to require nursing home level of care and active treatment, but the individual is sixty-five years of age or older and chooses to be placed in a nursing home and not to have active treatment.

(4) No private paying individual shall be admitted to a Medicaid certified facility until an identification screen has been completed for the individual and the individual is identified as:

(a) Not having a mental illness or developmental disability;

(b) Not requiring PASARR review for reasons listed under subsection (3)(c) of this section; or

(c) Likely to have a mental illness or developmental disability and a PASARR has been completed.

(5) Under the PASARR, the department, through a designee, shall determine whether the individual needs active treatment. Need for nursing home care shall be determined under WAC 388-88-080, 388-88-081, and 388-88-083. Need for active treatment shall be determined as follows:

(a) For an individual likely to have a mental illness, a qualified mental health professional, under chapter 275-56 WAC, shall validate whether the individual has a mental illness and, if so, shall recommend whether or not the individual needs the implementation of psychiatric active treatment;

(b) For an individual likely to have a developmental disability, a psychologist, meeting the qualifications of a qualified mental retardation professional, shall validate whether the individual has a developmental disability. For any individual validated by a psychologist as having a developmental disability, the department shall assess and make a final determination as to whether the individual requires the implementation of a continuous active treatment program.

(6) For purposes of this regulation, the following definitions shall apply:

(a) "Mental illness" means an individual has a current primary or secondary diagnosis of a major mental disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, third edition, and does not have a primary diagnosis of dementia, including Alzheimer's disease or a related disorder;

(b) "Developmental disability" means mental retardation or related conditions.

(i) "Mental retardation" means an individual has a level of mild, moderate, severe, or profound retardation as described in the American Association of Mental Deficiency's Manual on Terminology and Classification. Mental retardation refers to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(ii) A person with "related conditions" means an individual having a severe, chronic disability meeting all of the following conditions:

(A) Related conditions attributable to:

(I) Cerebral palsy or epilepsy; or

(II) Any other condition other than mental illness found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to a mentally retarded person and requires treatment or services similar to those required for that person.

(B) It is manifested before the person reaches twenty-two years of age;

(C) It is likely to continue indefinitely; and

(D) It results in substantial functions limitations in three or more of the following areas of major life activity:

(I) Self-care,

(II) Understanding and use of language,

(III) Learning,

(IV) Mobility,

(V) Self-direction, and

(VI) Capacity for independent living.

(c) "Active treatment" for an individual with mental retardation or related conditions means a continuous program for each client which includes:

(i) Aggressive, consistent implementation of a program of specialized and generic training;

(ii) Treatment, health services, and related services directed toward the acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and

(iii) The prevention or deceleration of regression or loss of current optimal functional status.

Active treatment does not include services to maintain a generally independent client able to function with little supervision or in the absence of a continuous active treatment program; and

(d) "Active treatment" for an individual with mental illness means the implementation of an individualized plan of care, developed under and supervised by a physician and other qualified mental health professionals, prescribing specific therapies and activities for the treatment of a person experiencing an acute episode of severe mental illness necessitating supervision by trained mental health personnel.

**WSR 89-06-051**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Order 2769—Filed February 28, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to alcohol detoxification program, amending chapter 388-40 WAC and adding new WAC 388-40-091.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the Department of Social and Health Services finds that the immediate amendment of chapter 388-40 WAC is necessary for the preservation of the public health, safety, and general welfare. Emergency legislation signed by the governor on January 17, 1989, has restored funding to the ADATSA program so that treatment and shelter services will not be terminated. Immediate change to these regulations are necessary to bring the implementation of restored services into compliance with the conditions set out in the emergency law SHB 1599.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 28, 1989.

By Leslie F. James, Director  
Administrative Services

**AMENDATORY SECTION** (Amending Order 2526, filed 8/21/87)

**WAC 388-40-030 ADATSA SERVICES.** (1) The department shall provide ADATSA services to the extent provided for by legislative appropriation and only to the extent each service conforms to all conditions and limitations set by the department. The department shall establish treatment and shelter caseload ceilings and eligibility standards as needed to assure the program operates within expenditure and caseload limits.

(2) Persons who qualify for the ADATSA program ((shall)) may be eligible for:

(a) A continuum of alcohol/drug treatment services and support ((as)) described ((in)) under WAC 388-40-090((;)) and 388-40-095; or

(b) Shelter services ((as)) described ((in)) under WAC 388-40-100.

((2))) (3) Recipients of ADATSA are eligible for medical care services ((as)) described ((in)) under WAC 388-86-120.

**AMENDATORY SECTION** (Amending Order 2526, filed 8/21/87)

**WAC 388-40-050 MEDICAL ELIGIBILITY REQUIREMENTS.** (1) If otherwise eligible, ADATSA assistance, available within the current appropriation, shall be granted to alcoholics and drug addicts whose chemical dependency is severe enough to render them incapable of gainful employment.

(2) Incapacity based on alcoholism or drug addiction shall be determined by a department designated chemical dependency assessment center. The assessment center is the department's sole source of medical evidence required for the diagnosis and evaluation of alcoholism/drug addiction and its effects on employability.

(a) The department shall require such an assessment in writing for all ADATSA applicants.

(b) The costs of assessments needed to determine eligibility shall be paid for by the department.

**AMENDATORY SECTION** (Amending Order 2740, filed 12/21/88)

**WAC 388-40-080 ADATSA ASSESSMENT CENTERS—ROLE.** (1) ADATSA assessment centers shall:

(a) Be responsible for diagnostic evaluation and placement; and

(b) Not be responsible for providing direct treatment.

(2) The assessment center shall, in accordance with standards set forth under chapter 275-19 WAC, conduct a face-to-face diagnostic assessment of the applicant to:

(a) Determine ((incapacity)) if the applicant is incapacitated from gainful employment based on alcoholism or drug addiction; and

(b) Determine whether the incapacitated applicant is willing and able to undergo a course of treatment or desires shelter or medical assistance only.

(3) Once the applicant's financial and medical eligibility is established, the assessment center shall:

(a) Determine if treatment or shelter is available, subject to caseload ceilings established by the department;

(b) Arrange all placements into treatment and/or shelter facilities, taking into account the treatment priorities set forth under WAC 388-40-091;

((b))) (c) Provide the applicant with written notification of the applicant's right to return to the CSO at any time while receiving ADATSA treatment or shelter assistance. This includes, but is not limited to, those situations where the ADATSA recipient is discharged from any inpatient, recovery house, outpatient, or shelter facility providing services under contract to the department;

((e))) (d) Provide the applicant with written notification of the applicant's right to request a fair hearing to challenge any action which affects eligibility for ADATSA treatment or shelter assistance;

((d))) (e) Provide ongoing case monitoring of treatment and/or shelter services; ((and))

((e))) (f) Notify the community services office promptly of all placement or eligibility status changes.

**AMENDATORY SECTION** (Amending 2635, filed 6/21/88)

**WAC 388-40-090 ADATSA TREATMENT MODALITIES—DESCRIPTION OF SERVICES, REQUIREMENTS, AND LIMITATIONS.** (1) The department shall offer ADATSA treatment services to

eligible applicants/recipients incapacitated by alcoholism or drug addiction, subject to availability defined under WAC 388-40-030(1) and priority classifications set forth under WAC 388-40-091.

(2) The department shall limit treatment services to a ((total)) maximum of six months in a twenty-four month period. The twenty-four month period begins on the date of initial entry into treatment.

(3) The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement, and treatment needs in accordance with RCW 70.96A.100(2) and the procedures in WAC 275-19-185.

(4) Treatment may consist of residential and/or outpatient services.

(5) The department shall limit residential treatment to the following services:

(a) Intensive inpatient treatment, not to exceed thirty days per admission;

(b) Recovery house treatment, not to exceed sixty days per admission;

(c) Extended care recovery house treatment, not to exceed ninety days;

(d) Long-term care residential treatment, not to exceed one hundred eighty days;

(e) Drug residential treatment, not to exceed one hundred eighty days.

(6) An applicant/recipient ((shall)) may qualify for up to ((six)) three months of direct outpatient treatment services if the assessment center determines ((that)) residential treatment is not necessary or appropriate. The assessment center shall base this determination on clinical or medical factors which would indicate the likelihood that an applicant/recipient would succeed in a less-structured primary treatment modality. Such factors may include an assessment of former treatment history, the number of detoxification admissions, and the chronicity, and degree of incapacity of the applicant/recipient. The assessment center shall also consider social factors such as the availability of social support systems, family support, and stable living arrangement when evaluating the individual's ability to benefit from primary outpatient treatment.

(7) A recipient seeking ninety days or more of continuous, direct outpatient treatment shall return to the assessment center after seventy-five days of outpatient treatment for re-evaluation. The assessment center shall determine:

(a) Whether the recipient remains incapacitated; and  
 (b) If more than ninety days of outpatient treatment is necessary or appropriate.

Availability of additional outpatient treatment shall be based upon the priorities under WAC 388-40-091.

(8) When outpatient treatment caseloads exceed one thousand seventy-five clients, applicants for outpatient treatment may be placed on a waiting list.

(9) ADATSA recipients who withdraw from treatment for any reason shall be subject to termination and shall reapply and/or be rereferred to the assessment center if they wish further ADATSA services.

(a) Recipients who drop out of treatment in the intensive inpatient phase may be required to repeat this phase.

(b) Recipients who drop out of treatment during the recovery house or outpatient phase may be required to return to the modality from which they dropped out or may be required to enter intensive inpatient treatment if, in the clinical judgment of the assessment center, a more structured form of treatment seems warranted. The assessment center shall refer to inpatient or residential treatment those recipients who demonstrate an inability to remain abstinent in outpatient treatment.

(c) Recipients who have been absent from inpatient treatment or other residential services for less than seventy-two hours may, at full discretion of the providing program director, reenter that program without being considered as having dropped out and without being required to reapply for readmittance through the assessment center.

#### NEW SECTION

**WAC 388-40-091 AVAILABILITY OF TREATMENT—PRIORITY GROUPS.** (1) Due to limited availability of treatment, the department shall provide residential and/or outpatient treatment services to eligible applicants/recipients under the following descending list:

(a) Pregnant women;

(b) Persons referred through the child protective services program;

(c) Adults residing in households with children;

(d) Persons receiving ADATSA shelter assistance, or other financial or medical assistance;

(d) Persons of the above-priority classes who require additional treatment; and

(f) Other applicants.

(2) Whenever waiting lists develop, the assessment center shall make treatment placements in order of priority.

(3) The department shall make reductions in outpatient caseload based on the priorities under subsection (1) of this section in inverse order if reductions in outpatient caseloads are necessary to meet the caseload limit.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION (Amending Order 2740, filed 12/21/88)

**WAC 388-40-100 ADATSA SHELTER SERVICES.** (1) Subject to the provisions under WAC 388-40-030(1), the department shall provide shelter services to eligible ADATSA applicants/recipients:

(a) Who refuse treatment; or

(b) Who have exhausted their six months of treatment in a twenty-four month period; or

(c) ((Who are)) In temporary need of shelter pending placement into a treatment facility.

(2) Eligible applicants/recipients wishing shelter services shall have their choice of:

(a) Placement by the assessment center into a department-contracted shelter facility which provides room and board; or

(b) A shelter assistance payment, through a protective payee, for independent housing and basic needs.

(3) The department shall provide assistance for independent housing only to recipients who will be residing in a permanent residential structure. These recipients must also have a deed of purchase, rental agreement, or other verifiable written agreement between themselves and the person or entity to whom they are obligated for shelter costs or from whom they are receiving supplied shelter.

(4) The department shall base the amount of assistance for independent housing and basic needs on the appropriate payment standard in WAC 388-29-100 (3)(a) or (b). For recipients in a contracted shelter facility, the department shall provide an allowance for clothing and personal incidentals based on the standard in WAC 388-29-130.

(5) Recipients receiving contracted shelter services who subsequently leave shelter without notice for more than seventy-two hours, or are discharged from the facility for disciplinary reasons, shall be subject to termination. Upon reapplication and/or re-referral, the assessment center shall again offer treatment and/or shelter as appropriate.

(6) When the projected average shelter caseload, during the period from January 1, 1989 through June 30, 1989, exceeds one thousand two hundred and thirteen clients per month, applicants for shelter assistance shall be placed on a waiting list.

(7) The department shall make reductions in shelter caseloads based on the following priorities in descending order if reductions in shelter caseloads are necessary to meet the caseload limit. The priority groups are persons who have received shelter assistance longer than:

- (a) Six months or longer;
- (b) Five months or longer;
- (c) Four months or longer;
- (d) Three months or longer;
- (e) Two months or longer, or
- (f) One month or less.

(8) A client placed on a shelter waiting list may return to the community services office to determine if they are also eligible for financial assistance for physical or mental incapacities.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-40-001 AVAILABILITY OF ADATSA SERVICES TO APPLICANTS.

WAC 388-40-002 AVAILABILITY OF ADATSA SERVICES TO CURRENT RECIPIENTS.

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

I, Joseph R. Blum, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is halibut are managed consistent with the recommendations of the Pacific Halibut Fisheries Commission. The halibut resource is under increasing pressure, and the commission has recommended limitation of the sport effort. These rules will allow for conservation of the resource and prohibit a March 1 opening scheduled by permanent regulations. There is insufficient time to adopt permanent regulations.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 28, 1989.

By Joseph R. Blum  
Director

#### NEW SECTION

WAC 220-56-24500F HALIBUT—BAG LIMITS. Notwithstanding the provisions of WAC 220-56-245, the bag daily limit for halibut is:

- (1) Catch Record Card Areas 1 or 2 – 1 halibut.
- (2) Catch Record Card Areas 3 through 13 – 2 halibut.

#### NEW SECTION

WAC 220-56-25500E HALIBUT SEASON. Notwithstanding the provisions of WAC 220-56-255, it is unlawful to fish for or possess halibut taken for personal use from the following areas except during the times indicated:

(1) Catch Record Card Areas 1 and 2 – April 1 until further notice; fishing allowed seven days per week.

(2) Catch Record Card Area 3 and those waters of Catch Record Card Area 4B west of the Bonilla-Tatoosh Line – May 6 until further notice; fishing allowed Tuesday through Saturday only.

(3) Those waters of Catch Record Card Area 4B east of the Bonilla-Tatoosh Line and Catch Record Card Areas 5 through 13 – April 8 until further notice; fishing allowed seven days per week.

**WSR 89-06-053**  
**EMERGENCY RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 89-7—Filed March 1, 1989]

I, Carol Jolly, assistant director of the Water and Shoreland Programs, do promulgate and adopt at the Department of Ecology Headquarters, Lacey, Washington, the annexed rules relating to interim wastewater discharge permit fees, chapter 173-223 WAC.

I, Carol Jolly, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is Initiative 97, passed by the voters, necessitates this regulation having a March 1 implementation date (also the effective date of the initiative) since it supports a fee funded program.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Ecology as authorized in chapter 43.21A RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 1, 1989.

By Carol Jolly  
Assistant Director

**AMENDATORY SECTION** (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

**WAC 173-223-015 PURPOSE AND AUTHORITY.** It is the purpose of this chapter to establish an interim fee system for permits issued by the department of ecology pursuant to RCW 90.48.160, 90.48.162, and 90.48.260. This fee system is subject to change in fiscal year 1990 and beyond. ((RCW 90.48.610)) Initiative 97 authorizes the department to charge fees to recover ((administrative)) expenses incurred in the issuance and administration of wastewater discharge permits. All fees charged shall be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and toxicity and be designed to encourage recycling and the reduction of the quantity of pollutants. Annual ((operating)) fees shall be ((based on seven fee eligible categories listed in RCW 90.48-600)) established in amounts to fully recover and not exceed expenses incurred by the department in:

- (1) Processing permit applications and modifications;
- (2) Monitoring and evaluating compliance with permits;
- (3) Conducting inspections;
- (4) Securing laboratory analysis of samples taken during inspections;
- (5) Reviewing required plans and documents directly related to operations of permittees;

(6) ((Monitoring compliance with)) Overseeing performance of delegated pretreatment programs; and

(7) Supporting the overhead expenses that are directly related to each of the preceding activities. Expenses start when a permit application is filed with the department of ecology.

**AMENDATORY SECTION** (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

**WAC 173-223-030 DEFINITIONS.** (1) "Annual fee" means the fee which is paid annually based on the state's fiscal year (July 1 to June 30).

(2) "Concentrated animal feeding operation" means an "animal feed operation" which meets the criteria in Appendix B of 40 CFR 122.23 (b)(3).

(3) "Department" means the department of ecology.

(4) "Director" means the director of the department of ecology or authorized representative.

(5) Domestic wastewater means water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration or surface waters as may be present.

(6) Domestic wastewater facility means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of domestic wastewater together with such industrial waste as may be present.

(7) "EPA" means the United States Environmental Protection Agency.

((6))) (8) "GPD" means permitted flow expressed in gallons per day.

((7))) (9) "Gross revenue" means gross receipts from monthly, bimonthly, and/or quarterly user charges for sewer services. Gross revenue includes user charges received from all classes of customers. Gross revenue includes all user charges and fees based on wastewater constituents' strengths and characteristics. Included among such charges and fees are surcharges for high-strength wastes and charges based on biochemical oxygen demand, suspended solids, oil and grease, toxicants, heavy metals, flow, etc. Gross revenue includes charges for receipt and treatment of septic tank wastes, holding tank wastes, chemical toilet wastes, etc. Gross revenue includes amounts received from other municipalities for sewage interception, treatment, collection, or disposal.

The following items are not included in gross revenue:

(a) Amounts derived by municipalities directly from taxes levied for the support or maintenance of sewer services.

(b) Late charges, penalties for nontimely payment by customers, interest on late payments, and all other penalties and fines.

(c) Permit fees and compliance monitoring fees for wastewater discharge permits issued by municipalities with local pretreatment programs. Permit fees which are charged to cover the cost of providing sewer service are not excluded from gross revenue.

(d) Receipts by a municipality of special assessments or installments thereof and interests and penalties thereon, and charges in lieu of assessments.

(e) Connection charges.

(f) Revenues from sales of by-products such as sludge, processed wastewater, etc.

(10) "Industrial facility" means any facility not included in definition of "municipal/domestic facility."

((8))) (11) "Major facility" means any NPDES permitted facility or activity classified as such by the Region 10 administrator of the Environmental Protection Agency in conjunction with the director as published in the state-EPA agreement for fiscal year 1988. Other facilities may be classified by agreement between EPA and the department based on EPA criteria following submittal of an application for a new source permit or permit modification.

((9))) (12) "MGD" means permitted flow expressed in million gallons per day.

((10))) (13) "Municipal/domestic facility" means a publicly-owned facility treating domestic wastes together with such industrial wastes as may be present, or a privately-owned facility treating domestic wastes.

((11))) (14) "Municipality" means a city, town, county, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under 33 U.S.C. Sec. 1288. State government agencies are not included in this definition.

(15) "Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product, and which does not contain chemicals added by the permittee.

((12))) (16) "NPDES permit" means the National Pollutant Discharge Elimination System permit issued by the department pursuant to section 402 of the Federal Clean Water Act and RCW 90.48.260.

((13))) (17) "Permit fee" means that fee charged by the department of ecology for expenses associated with the activities specified in WAC 173-223-015.

((14))) (18) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

((15))) (19) "Permitted flow" means:

(a) For municipal/domestic facilities, the monthly average flow limitation contained in the permit;

(b) For industrial facilities, the daily maximum flow limitation contained in the permit;

(c) For permits in which a flow limit is not specified, the department shall use the design flow corresponding to (a) or (b) of this subsection.

((16))) (20) "Residential equivalent" means((:

(a) For residential hookups, a single family residential unit, and for industrial or commercial hookups, a flow quantity of two hundred fifty gallons per day, or a biochemical oxygen demand quantity of 0.5 pounds per day, or a total suspended solids quantity of 0.5 pounds per day whichever basis yields the highest number, or

(b) A definition of residential equivalent submitted by the permittee and approved by the department that yields substantially similar results to (a) of this subsection.

((17))) a single-family residence or a unit of sewer service that yields an amount of gross revenue equal to the annual user charge for a single-family residence. In cases where the permit holder does not maintain data on gross revenue, user charges, and/or the number of single-family residences that it serves, "residential equivalent" means an influent flow of two hundred fifty gallons per day.

(21) "Sewer service" means the activity of receiving sewage deposited into and carried off by a system of sewers, drains, and pipes to a common point, or points, for disposal or for transfer to treatment for disposal, and activities involving the interception, transfer, storage, treatment, and/or disposal of sewage, or any of these activities.

(22) "State waste discharge permit" means a permit required under chapter 173-216 WAC.

#### AMENDATORY SECTION (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

#### WAC 173-223-040 PERMIT FEE SCHEDULE. Tables 1, 2, and 3.

(1) Industrial categories.

(2) Municipal/domestic categories.

(3) Special primary industry categories.

Table 1

| INDUSTRIAL CATEGORIES   | ANNUAL PERMIT FEE  |
|---|--|
| Major industries listed in Table 3  | \$ 31,000  |
| Major industries not listed in Table 3  | \$ 8,000   |
| Minor industries listed in Table 3<br>with permitted flows > 10,000 GPD             | \$ 7,000   |
| Minor industries not listed in Table 3<br>with permitted flows > 10,000 GPD         | \$ 2,500   |
| Minor industries listed in Table 3<br>with permitted flows < 10,000 GPD             | \$ 2,000   |
| Minor industries not listed in Table 3<br>with permitted flows < 10,000 GPD         | \$ 600   |
| Minor industries not listed in Table 3<br>discharging noncontact cooling water only | \$ 500   |
| Hatcheries/fish rearing/aquaculture   | \$ 1,500   |
| Water treatment plants  | \$ 1,250   |
| Concentrated animal feeding operations  | \$ 1,000   |
| General permits   | 70% of fee category in which they would otherwise belong |
| Industries with permitted flows ≤ 800 GPD   | \$ 150   |

Table 2  
MUNICIPAL/DOMESTIC

| Permitted Flows     | Minor Facility | Major Facility | Facility w/Pretreatment* |
|---------------------|----------------|----------------|--------------------------|
| > 100 MGD           | —              | —              | \$35,000                 |
| 50 MGD to < 100 MGD | —              | —              | \$25,000                 |
| 25 MGD to < 50 MGD  | —              | —              | \$20,000                 |
| 10 MGD to < 25 MGD  | —              | \$12,000       | \$15,000                 |
| 5 MGD to < 10 MGD   | \$7,500        | \$10,000       | \$12,000                 |
| 1 MGD to < 5 MGD    | \$6,000        | \$ 8,000       | \$ 9,000                 |
| .5 MGD to < 1 MGD   | \$4,500        | \$ 6,000       | —                        |
| .1 MGD to < .5 MGD  | \$2,500        | —              | —                        |
| .05 MGD to < .1 MGD | \$1,000        | —              | —                        |

| Permitted Flows        | Minor Facility | Major Facility | Facility w/Pretreatment* |
|------------------------|----------------|----------------|--------------------------|
| .0008 MGD to < .05 MGD | \$ 500         | —              | —                        |
| ≤ .0008 MGD            | \$ 150         | —              | —                        |

\*Municipal/domestic facilities with delegated pretreatment programs as authorized by the Federal Water Pollution Control Act.

(a) The annual permit fee for a permit held by a municipality for a domestic wastewater facility issued under RCW 90.48.162 and 90.48.260 is the lesser of:

(i) The fee assigned to the facility by Table 2;

(ii) Five cents times the number of months in the period for which the permit fee is collected times the number of residential equivalents which contribute to the domestic wastewater facility ( $\$.05 \times a \text{ months} \times \# \text{ of residential equivalents}$ ).

(b) The annual permit fee for each permit held by a municipality that holds more than one permit for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260 and which treats each domestic wastewater facility as a separate accounting entity, maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made, is determined as in (a) of this subsection.

(c) The sum of the annual permit fees for permits held by a municipality that holds more than one permit for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260 and which does not treat each domestic wastewater facility as a separate accounting entity, maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made, is the lesser of:

(i) The sum of the fees assigned to the facilities by Table 2;

(ii) Five cents times the number of months in the period for which the permit fee is collected times the number of residential equivalents which contribute to the municipality's wastewater system.

(d) The permit fee for a privately-owned domestic wastewater facility that primarily serves residential customers is determined as in (a) of this subsection. Residential customers are those whose lot, parcel or real estate, or building is primarily used for domestic dwelling purposes.

(e) Fees charged for the period March 1, 1989, through June 30, 1989, shall equal one-third of the annual fee calculated pursuant to (a), (b), (c) or (d) of this subsection.

(f) The number of residential equivalents is calculated in the following manner:

(i) If the facility serves only single-family residences, the number of residential equivalents is the number of single-family residences that it served on January 1 of the previous calendar year.

(ii) If the facility serves both single-family residences and other classes of customers, the number of residential equivalents is calculated in the following manner:

(A) Calculation of the number of residential equivalents that the facility serves in its own service area. Subtract from the previous calendar year's gross revenue:

(I) Any amounts received from other municipalities for sewage interception, treatment, collection, or disposal; and

(II) Any user charges received from customers for whom the permit holder pays amounts to the other municipalities for sewage treatment or disposal services. Divide the resulting figure by the annual user charge for a single-family residence.

(B) Calculation of the number of residential equivalents that the facility serves in other municipalities which pay amounts to the facility for sewage interception, treatment, collection, or disposal:

(I) Divide any such amounts received from other municipalities during the previous calendar year by the annual user charge for a single-family residence. In this case "annual user charge for a single-family residence" means the annual user charge that the facility charges other municipalities for sewage interception, treatment, collection, or disposal services for a single-family residence. If the facility charges different municipalities differing single-family residential user charges, then the charge used in these calculations must be that which applies to the largest number of single-family residential customers. Alternatively, if a facility charges different municipalities differing single-family residential user charges, the permit holder may divide the amount received from each municipality by the annual user charge that it charges that municipality for a single-family residence and sum the resulting figures.

(II) If the facility does not charge the other municipality on the basis of a charge per single-family residence, the number of residential equivalents in the other municipality is calculated by dividing its previous calendar year's gross revenue by its annual user charge for a single-family residence. If the other municipality does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, the number of residential equivalents is calculated as in (f)(iv) of this subsection.

(III) If the other municipality serves only single-family residences, the number of residential equivalents may be calculated as in (f)(i) of this subsection.

The sum of the resulting figures is the number of residential equivalents that the facility serves in other municipalities.

(C) The number of residential equivalents is the sum of the number of residential equivalents calculated in (f)(ii)(A) and (B) of this subsection.

(iii) The annual user charge for a single-family residence is calculated by either of the following methods, at the choice of the permit holder:

(A) The annual user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed monthly, this is calculated by multiplying by twelve the monthly user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed bimonthly, the annual user charge is calculated by multiplying by six the bimonthly user charge for a single-family residence using one

thousand eight hundred cubic feet of water per two-month period. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the charge used in these calculations must be that which applies to the largest number of single-family residential customers.

(B) The average annual user charge for a single-family residence. This average is calculated by dividing the previous calendar year's gross revenue from provision of sewer services to single-family residences by the number of single-family residences served on January 1 of the previous calendar year. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the gross revenue and number of single-family residences used in making this calculation must be those for all the single-family residential customers. In either case ((f)(iii)(A) or (B) of this subsection), the permit holder must provide the department with a copy of its complete sewer rate schedule for all classes of customers.

(iv) If a permit holder does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, and therefore cannot use the methods described in (e)(i) or (ii) of this subsection to calculate the number of residential equivalents that it serves, then the number of residential equivalents that it serves is calculated by dividing the average daily influent flow to its facility for the previous calendar year by two hundred fifty gallons. This average is calculated by summing all the daily flow measurements taken during the previous calendar year and then dividing the resulting sum by the number of days on which flow was measured. Data for this calculation must be taken from the permit holder's discharge monitoring reports. Permit holders using this means of calculating the number of their residential equivalents must submit with their application a complete set of copies of their discharge monitoring reports for the previous calendar year.

(v) If the facility received a permit fee reduction in accordance with WAC 173-223-090(3) for its fiscal year 1989 permit fee, the facility may use the residential equivalent count that was made in determining that fee reduction as the number of residential equivalents.

(g) Fee calculation procedures for holders of permits for domestic wastewater facilities.

(i) Municipalities holding permits for domestic wastewater facilities issued under RCW 90.48.162 and 90.48-260, and holders of permits for privately-owned domestic wastewater facilities that primarily serve residential customers must complete a form certifying the number of residential equivalents served by their domestic wastewater system. The form must be completed and returned to the department within thirty days after it is mailed to the permit holder by the department.

(ii) The form shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by a responsible corporate officer;

(B) In the case of a partnership, by a general partner;

(C) In the case of a sole proprietorship, by the proprietor;

(D) In the case of a municipal or other public facility, by either a ranking elected official or a principal executive officer.

(iii) The department may verify the information contained in the form and, if it determines that the permit holder has made false statements in its form, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

Table 3  
Special Industrial Categories

|   |
|---|
| Adhesives and sealants                        |
| Aluminum forming                              |
| Battery manufacturing and recycling           |
| Coal mining                                   |
| Coil coating                                  |
| Copper forming                                |
| Electrical and electronic components          |
| Electroplating                                |
| Explosives                                    |
| Gum and wood chemicals                        |
| Inorganic chemicals manufacturing             |
| Iron and steel manufacturing                  |
| Leather tanning and finishing                 |
| Metal finishing                               |
| Metal molding and casting                     |
| Nonferrous metals forming and metal powders   |
| Nonferrous metals manufacturing               |
| Nuclear fuels                                 |
| Ore mining and dressing                       |
| Organic chemicals manufacturing               |
| Paint and ink formulation                     |
| Pesticides                                    |
| Petroleum refining                            |
| Pharmaceutical manufacturing                  |
| Plastics molding and forming                  |
| Plastic and synthetic materials manufacturing |
| Porcelain enameling                           |
| Printing and publishing                       |
| Pulp, paper, and paperboard                   |
| Rubber manufacturing                          |
| Shipyards                                     |
| Soap and detergent manufacturing              |
| Steam electric power plants                   |
| Solid waste disposal sites                    |
| Tank cleaning and barrel reclamation          |
| Textile mills                                 |
| Timber products processing                    |

**AMENDATORY SECTION** (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

**WAC 173-223-050 PERMIT FEE PAYMENTS.**

**(1) Permit fee computation.** Computation of fees shall begin on the first day of each fiscal year, or in the case of facilities or activities not previously covered by permits, on the issuance date of the permit. In the case of applicants for state waste discharge permits who are deemed to have a temporary permit under RCW 90.48-200, computation shall begin on the sixty-first day after

the department receives an application. Computation of fees shall end on the last day of the state's fiscal year, or in the case of a terminated permit, on the date of termination. Computation shall end on the expiration date of a permit only if a permit holder has indicated to the department in writing that the permitted activity has been terminated.

(2) The department shall charge fees based on the annual fee schedule contained in WAC 173-223-040. The department may charge fees at the beginning of the year to which they apply. The department shall notify permit holders of fee charges by mailing billing statements. Fee payment shall be due and payable thirty days after the department mails a billing statement. The department may elect to bill permit holders a prorated portion of the annual fee on a monthly, quarterly, or other periodic basis((, and may adjust fees downward from the fee schedule if necessary to assure that total fees collected are within the maximum amount allowed under RCW 90.48.600 (three million six hundred thousand dollars per year))). In cases where a permit is only in effect for a portion of the fiscal year upon which the annual fee is based, the department shall prorate the fee accordingly. In addition to other circumstances, this applies where the department terminates a permit upon its determination that an industry which discharges to a municipal sewer system is satisfactorily regulated by a local pretreatment program.

(3) Delayed payment. In cases where payment of the total amount of fee charges, by the due date specified in this subsection, would cause substantial economic hardship, a permit holder may request that the department allow delayed payment. Such a request must be submitted to the department's fiscal office in writing by the permit's payment due date, and must include information demonstrating that such a hardship would occur. The department may approve such a request provided that the permit holder enters into a written agreement with the department to pay the fee charges and interest as specified in WAC 173-223-030, according to a specific delayed schedule, and that all fee and interest charges shall be paid in full by the fifteenth day of the last month of the year for which the fee is due.

(4) The applicable permit fee shall be paid by check or money order payable to the department of ecology, and mailed to the Department of Ecology, Fiscal Office, Mailstop PV-11, Olympia, Washington 98504.

(5) In the event checks are returned due to insufficient funds, fees shall be deemed not to have been paid.

(6) Interest due on delinquent or delayed accounts. The department shall charge permit holders interest on fee charges that have not been paid by the due date at the rate of ten percent per annum, compounded monthly. Interest charges shall be due and payable in the same manner as fees, and nonpayment of interest charges shall be deemed as nonpayment of fees for purposes of collection and enforcement.

(7) Enforcement for nonpayment. If a permit holder has failed to pay fee charges that are due and payable, the department shall give notice of intent to terminate the permit after thirty days in accordance with RCW 90.48.190 unless fee and interest charges are paid in full

within that time. Such notice shall be given by certified mail or by personal delivery, and shall state the exact amount due and the date by which the charges must be paid. If the full payment is not received by the department by the specified date, the department shall promptly issue an order terminating the permit. Such order shall be transmitted by certified mail or by personal delivery. Following termination of a permit, if the activity requiring a permit continues, the department shall either commence issuing civil penalties under RCW 90.48.144, or shall file an action to enjoin the activity previously authorized by the permit in a court of jurisdiction, or both. Civil penalties issued by the department shall be sufficiently large to offset the economic benefit gained from nonpayment of fees and to deter continued operation and/or nonpayment. Payment of civil penalties shall not be deemed as payment of fees, nor shall payment of fees after assessment of penalties be deemed as a cause for reducing the penalty: PROVIDED, That the department may reduce or set aside penalties upon a determination that it made a factual error or errors in assessing the penalty. Nothing herein shall be interpreted as restricting the authority of the department to exercise its other enforcement remedies as authorized by law.

#### AMENDATORY SECTION (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

WAC 173-223-070 CREDITS. Any public entity engaging in comprehensive monitoring programs may apply for credits against permit fees. The full amount of permit fees assessed against a public entity that has made application for credits shall not be due and payable until after the department made a determination on the application for credit. The department may establish a due date in accordance with WAC 173-223-050 for an amount equal to the fee assessment minus the requested credit. Any balance of fee charges remaining after approval or denial of a credit shall be due thirty days after the department gives notice of such approval or denial. The department may approve applications for credits that meet the following criteria:

(1) Credit shall not be granted to a facility in excess of twenty-five percent of the permit fee assessed over the five-year period of a permit;

(2) The total amount of credits granted for the five-year period beginning July 1, 1988, shall not exceed fifty thousand dollars. The total amount of credits granted for any one year shall not exceed the balance of the fifty thousand dollar maximum divided by the number of years remaining before July 1, 1993. If more than one permittee applies for credits during the same year, the department shall consider the amount of the credits applied for and the benefits derived from the comprehensive monitoring programs in distributing the credits for that year among the applicants;

(3) Credit shall not be granted for monitoring required by the terms of the applicant's permit, nor for monitoring of effluent or the effects of effluent on the receiving water, sediment, or biota in the vicinity of the discharge, nor for monitoring that is within the scope of monitoring guidelines developed by the department for implementation through permits;

(4) In applying for ((an NPDES permit)) a credit, the public entity must demonstrate that the applicant's comprehensive monitoring procedures benefits to the general public or to public agencies responsible for protection or management of the state's waters or aquatic resources. Such benefits must extend beyond the immediate jurisdiction or responsibility of the entity making application.

(5) Requests for credits for fiscal year 1989 must be received by the department no later than April 1, 1989.

**AMENDATORY SECTION** (Amending Order 88-8, filed 5/26/88, effective 7/1/88)

**WAC 173-223-090 ADMINISTRATIVE APPEALS TO THE DIRECTOR.** (1) Any person aggrieved by a determination made under this chapter by the department may file a written appeal to the director no later than the due date for payment of fees. Such appeal shall state the reasons that the aggrieved person believes that the department's determination is contrary to the requirements of ((RCW 90.48.600, 90.48.610, or 90.48.620)) Initiative 97, and specific actions that he/she is requesting that are consistent with those requirements. The director shall either issue a revised determination or a statement upholding the original determination. A revised determination shall be consistent with the requirements of ((RCW 90.48.600, 90.48.610, and 90.48.620)) Initiative 97. If the director determines that there is a substantial public interest, he/she may hold a public hearing on the appeal prior to issuing a final determination.

(2) Small businesses required to pay permit fees under the industrial facility fee categories may receive a reduction of their permit fees.

(a) To qualify for the fee reduction, a business must:

(i) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;

(ii) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);

(iii) Have fifty or fewer employees; and

(iv) Have annual sales of five hundred thousand dollars or less of the goods or services produced using the wastewater-discharging process.

(b) To receive a fee reduction, the permit holder must submit an application in a manner prescribed by the department demonstrating that the conditions of (a) of this subsection have been met. The application shall bear a certification of correctness and be signed:

(i) In the case of a corporation, by a responsible corporate officer;

(ii) In the case of a partnership, by a general partner;

(iii) In the case of a sole proprietorship, by the proprietor.

(c) The department may verify the information contained in the application and, if it determines that the permit holder has made false statements in its application, may deny requests for fee reductions and revoke previously granted fee reductions.

(d) The annual permit fee for small businesses determined to be eligible shall be reduced by fifty percent.

(e) If due to special economic circumstances the fee imposed by (d) of this subsection would impose an extreme hardship on a small business, the small business may so indicate in its application for fee reduction and request a further fee reduction. The small business must provide sufficient evidence to support its claim of extreme hardship. The factors which the department may consider in determining whether the applicant faces special economic circumstances and in setting the applicant's fee include: The applicant's annual sales, the size of its labor force, the conditions of the market which affect the applicant's ability to pass the cost of the permit fee through to its customers, and its average annual profits. In no case will the annual fee be reduced below one hundred fifty dollars.

((3) Holders of wastewater discharge permits for municipal/domestic facilities which are assigned to a fee category which imposes a fee greater than five dollars per residential equivalent per year are eligible for permit reductions:

(a) To receive a fee reduction, a permit holder must submit an application in a manner prescribed by the department certifying the number of residential equivalents that the facility serves.

(b) The application shall bear a certification of correctness and be signed:

(i) In the case of a corporation, by a responsible corporate officer;

(ii) In the case of a partnership, by a general partner;

(iii) In the case of a sole proprietorship, by the proprietor;

(iv) In the case of a municipal, state, or other public facility, by either a ranking elected official or a principal executive officer.

(c) The department may verify the information contained in the application and, if it determines that the permit holder has made false statements in its application, may deny requests for fee reductions and revoke previously granted fee reductions.

(d) The annual permit fee for a municipal/domestic facility which has been determined to be eligible shall be five dollars times the number of residential equivalents that the facility serves.))

**WSR 89-06-054  
PROPOSED RULES  
BOARD FOR  
COMMUNITY COLLEGE EDUCATION**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board for Community College Education intends to adopt, amend, or repeal rules concerning tuition and fee charges made to students enrolled in Washington community colleges;

that the agency will at 10:00 a.m., Thursday, April 13, 1989, at South Puget Sound Community College, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.15.502 and 28B.15.740.

The specific statute these rules are intended to implement is same as above.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 13, 1989.

Dated: March 1, 1989  
By: Gilbert J. Carbone  
Assistant Director

### STATEMENT OF PURPOSE

**Rule Title, Description of Purpose, and Statutory Authority:** Under authority provided in RCW 28B.15.502 and 28B.15.740, the State Board for Community College Education has adopted rules governing certain aspects of the method of charging tuition and fees for community college attendance and has set rates for certain types of courses. It is proposed that amendments be adopted to relevant section of chapter 131-28 WAC, Tuition and fee charges.

**Summary of Rule and Reasons Supporting Proposed Action:** The proposed amendments contain editorial corrections to make terminology consistent with current statutory provisions and administrative practices of the college system. It is also proposed that the method be changed for determining the single-credit charge to part-time students based on the statutory level of the charges that must be made to full-time students.

**Agency Personnel Responsible for Drafting:** Gilbert J. Carbone, Assistant Director; **Implementation and Enforcement:** Earl Hale, Director.

**Person or Organization Proposing Rule:** State Board for Community College Education.

**Agency Comments:** None.

**Rule Necessary as a Result of Federal Law or Federal or State Court Action:** No.

### AMENDATORY SECTION (Amending Order 12, filed 7/22/71)

**WAC 131-28-015 ASSESSMENT OF TUITION AND FEE CHARGES.** It shall be the general policy of the Washington community college system that all tuition((, operating fees,)) and services and activities fees, or special fees charged to students shall be assessed on a uniform and equitable basis, except when the requirement to pay all or part of such fees has been specifically waived or altered by law or by regulation of the state board or the district board of trustees.

### AMENDATORY SECTION (Amending Order 94, Resolution No. 82-37, filed 10/26/82)

**WAC 131-28-021 DEFINITIONS.** For the purpose of WAC 131-28-025, the following definitions shall apply:

(1) "Resident student" and "nonresident student" shall be defined in the same manner as in chapter 28B.15 RCW.

(2) "Tuition((;))" ((operating fees,)) and "services and activities fees" shall be defined in the same manner as in chapter 28B.15 RCW.

(3) "Special fees" shall be defined as all fees established by the district board of trustees other than tuition, operating fees or services and activities fees and as such shall include fees charged to an individual student for specific services and privileges received by such student.

(4) "((Community service)) Student funded course" shall be defined as any organized instructional activity, typically ungraded, primarily offered for part-time students, not normally an integral part of any specific study program leading to either an academic or an occupational degree or certificate, and specifically identified as such by a

community college consistent with the course classification procedures established by the state board.

(5) "Academic or occupational course" shall be defined as all organized instructional activities other than ((community service)) student funded courses.

(6) "Short course" shall be defined as any academic, occupational, or ((community service)) student funded course not regularly scheduled in the quarterly announcement of courses, not routinely listed in the college catalog as a regular and normal part of the instructional program, and not normally of a full quarter in duration.

(7) "Regular course" shall be defined as any academic, occupational, or ((community service)) student funded course not classified as a short course.

(8) "Required course" shall be defined as any course specified in the college catalog or official curriculum description of any vocational preparatory program as necessary for completion of such program, except courses prerequisite to such program.

(9) "Vocational preparatory program" shall be defined as any planned series of learning experiences, the specific objective of which is to prepare persons to enter gainful employment in a recognized occupation not designated as professional or requiring a baccalaureate or higher degree, provided that such program has been approved by the state board.

### AMENDATORY SECTION (Amending Order 94, Resolution No. 82-37, filed 10/26/82)

**WAC 131-28-025 METHOD OF ASSESSING TUITION AND FEE CHARGES.** (1) For academic and occupational regular or short courses, tuition and fees charged to students:

(a) Shall be based upon the number of credits assigned to such courses as listed in the official and current catalog of the college, or for courses not given such credit designations, the number of credit equivalents as computed by the method for deriving such equivalents established by the state board.

(b) Shall be assessed on a per-credit basis at uniform rates for resident and for nonresident students, provided:

That the respective maximums charged to any resident or nonresident student shall not exceed the amount specified in chapter 28B.15 RCW.

(c) Shall be assessed for part-time students, for each credit of registration or its equivalent, at the rate of ((one-tenth)) one-twelfth of the total combined tuition ((and operating fees)) and services and activities fees charged to full-time students consistent with chapter 28B.15 RCW.

(d) Shall include an additional ((operating)) fee for each credit in excess of eighteen at the rate of ((one-tenth)) one-twelfth of the ((combined general)) tuition ((and operating fee)) charged to full-time students consistent with chapter 28B.15 RCW, except that no such additional charges shall be assessed to a student enrolled in both a vocational preparatory program and a required course in that program as defined in WAC 131-28-021. This exemption shall require written approval by an appropriate college official.

(e) Shall be no less than two times the amount of ((general)) tuition((, operating fee,)) and services and activities fees charged for one credit.

(2) The provisions of this section shall not apply to the ungraded courses set forth in WAC 131-28-026.

(3) For ((community service)) student funded courses, fees charged to students:

(a) Shall be designated as a special fee, all revenue from which shall be used for the general operations and maintenance of the college;

(b) Shall be assessed at a rate sufficient to defray the direct and indirect costs of offering such community service courses.

(4) Nothing herein shall be construed to be a restriction on the right of the district board of trustees to assess additional noninstructional fees and special fees to cover unique instructional costs or expendable instructional materials related to any course offered by a college district.

### AMENDATORY SECTION (Amending Order 94, Resolution No. 82-37, filed 10/26/82)

**WAC 131-28-026 TUITION ((AND FEE)) CHARGES FOR CERTAIN UNGRADED COURSES.** (1) When in the judgment of a district board of trustees certain courses should be designated as ungraded courses and offered by tuition ((and fee)) rates that differ from the standard rates set by WAC 131-28-025, the board of trustees may

propose such designations and tuition ((and fee)) levels. Implementation of such proposals shall be contingent upon approval of the state director, who shall review such proposals with respect to the provisions of subsection (2) of this section and with respect to a general standard of system-wide consistency of tuition ((and fee)) charges when essentially similar services are provided.

(2) Ungraded courses designated pursuant to subsection (1) of this section shall meet the following qualifications:

(a) The primary intent of offering the course is other than providing academic credit applicable to an associate's or higher degree.

(b) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

(c) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge other than that intended to lead to initial employment.

(d) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(e) The course is not offered primarily as an integral part of any lower-division curriculum or program.

(f) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) For the purposes of this section, ungraded courses shall be defined as those courses classified according to the official course classification taxonomy established by the state board as occupational supplementary, occupational homemaking, academic basic education, or academic general education courses, provided they shall also meet the qualifications set forth in subsection (2) of this section.

(4) For the purpose of implementing WAC 131-28-025(2), the tuition ((and fees)), exclusive of special fees, charged by any Washington community college for the following ungraded courses shall be:

| Course  | <u>Tuition</u>  |                   |                                |
|---|---|-------------------|--------------------------------|
|   | ((Tuition))<br>Building<br>Fee  | Operating<br>Fee  | Services and<br>Activities Fee |
| (a) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices while indentured with the Washington state apprenticeship council or Federal Bureau of Apprenticeship and Training | \$1.40 per credit   | \$3.60 per credit | No charge                      |
| (b) Department of labor and industries approved industrial first aid courses offered for the purpose of satisfying WISHA first aid certification requirements   | Standard rate   | Standard rate     | No charge                      |
| (c) Parent education involving cooperative preschool program  | The combined standard district charge per credit hour for tuition and operating fees less the preschool cooperative fee, with any remainder divided equally between tuition and operating fee |                   | No charge                      |

| Course  | <u>Tuition</u>                 |                        |                                |
|---|--------------------------------|------------------------|--------------------------------|
|   | ((Tuition))<br>Building<br>Fee | Operating<br>Fee       | Services and<br>Activities Fee |
| (d) Farm management and small business management   | Standard rate                  | Standard rate          | No charge                      |
| (e) Adult basic education courses supported by federal funds and English as a second language courses funded from such sources                          | No charge                      | No charge              | No charge                      |
| (f) Emergency medical technician  | \$1.40 per credit              | \$3.60 per credit      | No charge                      |
| (g) Courses specifically designed to provide skills and understandings particularly related to the problems of retirement and advanced age              | \$1.00 per credit hour         | \$1.00 per credit hour | No charge                      |
| (h) Courses providing advanced training and skill maintenance for journeypersons in cooperation with local joint apprenticeship and training committees | Standard rate                  | Standard rate          | No charge                      |

(5) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(6) Tuition((, operating fees,)) and services and activities fees received pursuant to this section shall be accounted for and deposited in conformance with the provisions of RCW 28B.50.360, 28B.15.031, and 28B.15.041 respectively.

(7) The term "standard rate" as used in this section shall mean the tuition ((and/or operating fees)) charged for one quarter credit.

#### AMENDATORY SECTION (Amending Order 94, Resolution No. 82-37, filed 10/26/82)

**WAC 131-28-030 WAIVER OF TUITION AND FEES FOR NEEDY OR DISADVANTAGED STUDENTS.** Pursuant to authority granted by RCW 28B.15.740, the boards of trustees of community college districts are authorized to waive all or part of ((general)) tuition((, operating,)) and services and activities fees for needy students: PROVIDED, That the students shall qualify for such waiver as determined by the criteria set forth in WAC 131-28-040 through 131-28-045.

#### AMENDATORY SECTION (Amending Order 110, Resolution No. 86-42, filed 10/30/86)

**WAC 131-28-040 CRITERIA FOR DETERMINING ELIGIBILITY FOR WAIVER OF TUITION AND FEES UNDER RCW 28B.15.740.** Waiver of ((general)) tuition((, operating,)) and services and activities fees, or any portions thereof as authorized by RCW 28B.15.740, normally charged to students enrolled shall be based upon the determination that the student is a needy student by application of a method of need analysis approved by the United States Department of Education for determining awards under federal student financial aid programs or one adopted by the state board for community college education specifically for the purposes of this section, except as provided in WAC 131-28-045.

AMENDATORY SECTION (Amending Order 110, Resolution No. 86-42, filed 10/30/86)

**WAC 131-28-045 PROCEDURE FOR IMPLEMENTING TUITION AND FEE WAIVERS AUTHORIZED PURSUANT TO RCW 28B.15.740.** (1) Tuition and fee waivers for needy students in any fiscal year as authorized by RCW 28B.15.740 may not exceed three percent of any college district's estimated total collections of tuition((, operating,)) and services and activities fees had no such waivers been made, after deducting the portion of that total amount which is attributable to the difference between resident and nonresident tuition and fees.

(2) The estimated total collection of tuition and fees shall be based on budgeted, state supported, four-quarter annual average enrollment.

(3) Each district may waive an amount not to exceed three percent of the estimated collections in the event that actual enrollments or collections exceed estimated collections. Conversely, the three percent waiver capacity based upon estimated collections is allowable even though actual collections may not be as high as the estimate.

(4) Districts desiring to exceed their individual three percent waiver capacity may do so only upon written approval from the state director of community colleges or his designee. This waiver capacity can only be granted to a district after it has been determined that the total waiver capacity for the community college system is not being utilized as a result of other districts waiving at levels less than the three percent capacity.

(5) At least three-fourths of the total amount waived by any district shall be for needy students who are eligible to pay resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015 and the remainder may be for other students as determined by the board of trustees, except that no such waivers shall be based on participation in intercollegiate athletic programs.

AMENDATORY SECTION (Amending Order 45, filed 9/12/75)

**WAC 131-28-080 TUITION AND FEE WAIVERS FOR SENIOR CITIZENS.** (1) Pursuant to the authority granted by chapter 157, Laws of 1975 1st ex. sess., community college districts are authorized to and may waive, in whole or in part, tuition((, operating,)) and services and activities fees for any individual who has or will have attained sixty years of age by the first day of instruction of the quarter during which enrollment is desired and who is a resident of Washington, regardless of the length of such residency.

(2) College districts that elect to grant waivers as authorized by this section may:

(a) Waive, in whole or in part, tuition((, operating,)) and services and activities fees for students enrolled on a credit basis.

(b) Charge, in lieu of tuition((, operating,)) and services and activities fees, a special fee of not more than \$5.00 per quarter per individual in total for those courses for which waivers are granted for students enrolled on an audit basis.

(c) Charge, in addition, any other special fees normally assessed to students who enroll in any course toward which the waiver authority contained in this section is applied.

(3) When granting waivers as authorized by this section, community college districts shall be subject to the following regulations:

(a) Senior citizens who desire to enroll under the provisions of this section shall not be required to pass any financial need or means test as the basis for receiving such waivers.

(b) Such waivers shall not be applied to more than two courses per individual per quarter; however, qualified senior citizens may enroll in additional courses upon payment of the required tuition and fees normally charged to other students so enrolled.

(c) Such waivers shall be granted only on a "space available" basis after opportunity has been given for other students to register for courses offered by the college district.

(d) No new or additional courses or course section shall be created for the purpose of accommodating enrollments of students enrolled on the basis of waivers under this section.

(e) Waivers under this section shall not be granted to individuals who plan to use credits thus earned to improve their status for credentialing or salary schedule purposes; provided that it shall be the responsibility of the student to inform the college of the intended use of credits earned through enrollment under this fee waiver authorization.

(f) Enrollment information and statistical data related to enrollments made under this section must be maintained separately and must be discretely identified and distinguished from enrollments reported to the state board for all fiscal purposes.

(g) Computations of enrollment levels, student-faculty ratios, or other similar enrollment-related statistics must exclude student credit hours generated by enrollments for which waivers have been granted under this section.

(h) Individuals enrolled under this section must be afforded equal opportunity to utilize advisory and counseling services offered by the college district.

(i) All existing course prerequisites must apply to students enrolled under this section.

AMENDATORY SECTION (Amending Order 102, Resolution No. 84-67, filed 12/13/84)

**WAC 131-28-085 TUITION AND FEE WAIVERS FOR FULL-TIME COMMUNITY COLLEGE EMPLOYEES.** Pursuant to the authority granted by RCW 28B.15.535, community college districts are authorized to and may waive tuition((, operating,)) and services and activities fees for full-time employees at their respective institutions of higher education enrolled in courses at said institutions under the following conditions:

(1) Enrollment shall be on a space-available basis after opportunity has been given for other students to register for courses offered by the college.

(2) No new or additional courses or course sections shall be created for the purpose of accommodating enrollments of students enrolled on the basis of waivers under this section,

(3) Enrollment information on employees enrolled on a space-available basis shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall persons enrolled pursuant to the provisions of this section be considered in any enrollment statistics which would affect budgetary determinations.

(4) Computations of enrollment levels, student-faculty ratio, or other similar enrollment related statistics must exclude student credit hours generated by enrollments for which waivers have been granted under this section,

(5) Employees enrolling on a space-available basis shall be charged a registration fee of not less than five dollars per quarter,

(6) Community college districts may limit the number of courses per quarter for which an employee may enroll pursuant to this section,

(7) Districts may enroll full-time intercollegiate center for nursing education, cooperative extension service and agricultural research employees of Washington State University if such employees are stationed off-campus provided that (a) the employee's work station is situated within the district where he enrolls and (b) such a waiver of tuition and fees complies with conditions listed in subsections (1) through (6) of this section,

(8) Districts may recognize completion of such courses for salary improvement or vocational certification provided such courses are an approved part of the professional improvement plan of the individual,

(9) Prior to implementing any program for tuition and fee waivers for full-time employees, the college district shall adopt a written rule regarding such program and definitively set forth rules and procedures related to:

(a) Whether or not employees may take tuition free courses on released time and under what circumstances;

(b) Whether or not courses taken on a tuition free basis shall be allowed to apply toward an advancement on the salary schedule of the institution;

(c) Whether or not there will be a limit on the number of courses per quarter an employee may take; what that limitation is and any other constraints;

(d) The definition of a full-time employee, professional and classified, for purposes of this act;

(10) The individual community college district shall submit a copy of its adopted rule relating to the above to the state director.

AMENDATORY SECTION (Amending Order 100, Resolution No. 84-57, filed 10/23/84)

**WAC 131-28-090 TUITION AND FEE WAIVERS FOR UNEMPLOYED AND UNDEREMPLOYED RESIDENT STUDENTS.** (1) The purpose of this section is to carry out the intent of the legislature to provide tuition-free educational opportunities for unemployed and underemployed individuals who wish to attend a Washington community college on a space-available basis.

- (2) Pursuant to authority granted by chapter 50, Laws of 1984, community college districts may waive, in whole or in part, tuition((; operating fees;)) and services and activities fees for any individual who:
- (a) Is a resident student as defined by RCW 28B.15.012(2);
  - (b) Will have attained age twenty-one prior to the first day of instruction on the basis of such waiver;
  - (c) Has not attended an institution of higher education during the six-month period immediately prior to the first day of instruction, other than pursuant to this section;
  - (d) Is not receiving or eligible to receive unemployment compensation funded by federal, state matching, or trade readjustment benefit sources;
  - (e) Has a monthly household income below four hundred sixty-five dollars for a single person and an additional one hundred thirty dollars for each additional household member or the successor values to these amounts as may be subsequently established by the department of social and health services as need standards for assistance determination purposes;
  - (f) Has been or will have been unemployed for at least six months prior to the first day of instruction or is underemployed as evidenced by monthly income for the preceding six-month period below the level established in (e) of this subsection.
- (3) Enrollments made pursuant to this section shall be on a space available basis.
- (4) No new course sections shall be created as a result of enrollments based on waivers authorized by this section.
- (5) Enrollment information on students registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor be considered in any enrollment statistics which would affect budgetary determinations.
- (6) Persons enrolled pursuant to this section shall have the same access to support services as do all other students and shall be subject to all course prerequisites and requirements.

**WSR 89-06-055**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
[Memorandum—February 24, 1989]

Following is the revised meeting schedule for regular meetings to be held by the University of Washington's Bioengineering Curriculum Committee.

Bioengineering Faculty

| Meeting Dates   | Location              | Time      |
|-----------------|-----------------------|-----------|
| January 10      | 322 Harris            | 8:30 a.m. |
| February 14     | 322 Harris            | 8:30 a.m. |
| March 14        | 322 Harris            | 8:30 a.m. |
| April 11        | 322 Harris            | 8:30 a.m. |
| May 9           | 322 Harris            | 8:30 a.m. |
| June 13         | 322 Harris            | 8:30 a.m. |
| September 12    | 322 Harris            | 8:30 a.m. |
| October 10      | 322 Harris            | 8:30 a.m. |
| November 14     | 322 Harris            | 8:30 a.m. |
| December 12     | 322 Harris            | 8:30 a.m. |
| July and August | do not have meetings. |           |

Bioengineering Curriculum

| Meeting Dates | Location   | Time      |
|---------------|------------|-----------|
| January 31    | 322 Harris | 8:30 a.m. |
| February 28   | 322 Harris | 8:30 a.m. |
| March 28      | 322 Harris | 8:30 a.m. |
| April 25      | 322 Harris | 8:30 a.m. |
| May 30        | 322 Harris | 8:30 a.m. |
| June 27       | 322 Harris | 8:30 a.m. |

|              |            |           |
|--------------|------------|-----------|
| September 26 | 322 Harris | 8:30 a.m. |
| October 31   | 322 Harris | 8:30 a.m. |
| November 28  | 322 Harris | 8:30 a.m. |
| December 26  | 322 Harris | 8:30 a.m. |

**WSR 89-06-056**  
**NOTICE OF PUBLIC MEETINGS**  
**BOARD FOR VOCATIONAL EDUCATION**  
[Memorandum—March 1, 1989]

The Washington State Board for Vocational Education will meet on Thursday, March 23, 1989, beginning at 8:30 a.m. in Room B-1 at the New Market Vocational Skills Center in Tumwater.

In addition, the State Board for Vocational Education and State Council on Vocational Education (COVE) will meet jointly at 2:00 p.m. in Room B-11 at the New Market Vocational Skills Center.

People needing special accommodations, please call Patsi Justice at (206) 753-5660 or 234-5660 scan.

**WSR 89-06-057**  
**PROPOSED RULES**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
**(Public Works Board)**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Works Board intends to adopt, amend, or repeal rules concerning emergency public works projects, chapter 399-30 WAC;

that the agency will at 10:00 a.m., Tuesday, April 4, 1989, in the Towne Plaza Motor Inn, North 7th and East Yakima Avenue, Yakima, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 43.155.040(4).

The specific statute these rules are intended to implement is RCW 43.155.065.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., Friday, March 31, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-02-057 filed with the code reviser's office on January 4, 1989.

Dated: February 28, 1989  
By: Chuck Clarke  
Director

**STATEMENT OF PURPOSE**

Title: Chapter 399-30 WAC, Emergency public works projects.

Statutory Authority and the Specific Statute the Rule is Intended to Implement: RCW 43.155.040(4) to implement RCW 43.155.065.

**Summary of the Rule and Statement of the Reasons Supporting the Proposed Action:** The proposed rules establish the procedures by which applications for emergency public works project loans from the public works assistance account will be considered, evaluated, and prioritized.

**Person Responsible for Drafting, Implementation, and Enforcement of the Rules:** Robert C. Anderson, Chair, Public Works Board, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, phone (206) 586-0490.

**Name of the Organization Proposing the Rule:** Public Works Board.

**Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule:** These rules are necessary to carry out the intent of chapter 43.155 RCW, which creates the Public Works Board and authorizes it to make low-interest or interest-free loans for emergency public works projects that meet the legislation's criteria and standards.

**Whether the Rule is Necessary as the Result of Federal Law or Federal or State Court Action:** No.

**Small Business Impact Statement:** Reviewed and found to be not applicable.

**Local Government Fiscal Impact:** Reviewed and found to be not applicable.

#### **AMENDATORY SECTION** (Amending Order 85-17, filed 12/4/85)

**WAC 399-30-020 DEFINITIONS.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the public works board.

(2) "Department" means the department of community development.

(3) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(4) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(5) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems.

(6) "Emergency public works project" means a public works project made necessary by a natural disaster, or an immediate and emergent threat to the public health and safety due to unforeseen or unavoidable circumstances.

#### **NEW SECTION**

**WAC 399-30-045 EMERGENCY LOAN PROGRAM.** This section implements RCW 43.155.060 as amended in 1988 to provide that: The board may make low-interest or interest free loans to local governments for emergency public works projects. The emergency loan program is to financially assist eligible communities experiencing the loss of critical public works services or facilities due to an emergency, and that can demonstrate a substantial fiscal need as reflected in the lack of local budget resources or other funds reserved for this purpose.

(1) Eligible local governments. Applicants must meet the conditions as identified under WAC 399-30-030(2).

(2) Eligible uses of funds. Financial assistance received shall be used for the purpose of restoring the services and/or repair of the public works facilities involved in the emergency. Assistance provided may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following:

- (a) Federal disaster or emergency funds, including funds from the Federal Emergency Management Agency;
- (b) State disaster or emergency funds;
- (c) Insurance settlements; or
- (d) Litigation.

Reimbursement from the sources listed above shall be made to the department and shall remain in obligation of the assisted local government up to four years after the date of formal project closeout with the department. Local governments receiving funds shall undertake efforts to be reimbursed in a timely manner. Further, that assistance will be offered only for those eligible costs identified in WAC 399-30-030(3).

(3) Availability of funds. Funding will be made available on a first-come first-served basis. Only those funds specifically appropriated by the legislature from the public works assistance account shall be used to make emergency loans. That amount shall not exceed five percent of the total amount appropriated from this account in any biennium.

(4) Application process. The application process shall be in writing on such forms or format as may be prescribed and obtained from the board. The date and time of receipt by the board designated representative shall determine the sequence for application processing.

##### **(5) Board deliberations—Emergency loan applications.**

(a) The board will consider and approve or disapprove all eligible applications for emergency financial assistance at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(b) All applications will be accepted, evaluated, and prioritized in accordance with the following procedures:

(i) Applications will be accepted only when emergency funding is available.

(ii) Staff will review applications and verify that the applicant is eligible for assistance as set forth in RCW 43.155.070(1).

(iii) Staff will provide the board an evaluation of whether an emergency loan is needed based upon the information documented by the applicant and staff.

(iv) Site visits to the location of the emergency public works project will be carried out at the discretion of the board or staff.

(6) Loan terms. The board shall determine the term and interest rate(s) of emergency loans annually.

(7) Exceptions to public works trust fund policies and procedures. Except as provided in this chapter or specified in annual program guidelines, the emergency program shall follow all general administrative program policies as set for the public works trust fund.

#### **AMENDATORY SECTION** (Amending Order 85-17, filed 12/4/85)

**WAC 399-30-050 RECOMMENDATIONS TO THE LEGISLATURE.** (1) Prior to November 1, 1986, and in each subsequent year, the board shall develop and submit to the ways and means committees of the senate and house of representatives a prioritized list of projects which the board recommends for funding by the legislature. In the board's first year of operation, the board shall submit this list to the ways and means committees by February 1, 1986.

(2) In addition to the requirements of RCW 43.155.070(((6))) (4), the list will include such supporting material as the board considers necessary to meet the purposes of this chapter.

(3) Before November 1 of each year, the board shall develop and submit to the chairs of the ways and means committees of the senate and house of representatives a description of the emergency loans made under this program as provided in RCW 43.155.070(4), as amended in 1988, and identified in RCW 43.155.065.

#### **NEW SECTION**

**WAC 399-30-065 EMERGENCY LOAN AND FINANCING GUARANTEE CONTRACTS.** (1) After the legislature has appropriated funds from the public works assistance account for emergency loans, the loan funds will be disbursed to the applicant local government pursuant to a contract therefor, which will be offered to the local government with such reasonable terms and conditions as the board may determine: PROVIDED, That the funds provided by a local government which are considered local financial participation shall consist of locally generated revenues and/or federal and/or state-shared revenues subject to discretionary allocation by the recipient unit of local government: PROVIDED FURTHER, That loans shall not exceed twenty years in duration, or the useful life of the improvements, whichever is shorter. Exception to these provisions shall be made only in cases of severe economic distress and/or natural disaster.

(2) Public works project loan and/or financing guarantee agreements offered to local governments shall be formally executed by the local government and the department of community development prior to the disbursal of any funds thereunder.

(3) Public works project loan and/or financing guarantee scope of work forms shall be completed and returned to the department of community development by the local government within ninety days of the date a scope of work form request is initiated.

(4) Public works project loan and/or financing guarantee contracts offered to local governments shall be executed by the local government within ninety days of the date a loan agreement is initiated.

(5) Work on public works projects financed through loans or financing guarantees offered to local governments must commence within one hundred eighty days of the date of loan execution.

(6) Work on public works projects financed through loans or financing guarantees offered to local governments must be completed within twelve months of the date work has begun on such projects, unless a written request for extension is approved by the board.

(7) Funds expended by local governments on projects financed through loans or financing guarantees by the public works assistance account before an agreement has been formally executed by the local government and the department of community development may not be reimbursed with funds from the public works assistance account: PROVIDED, That if the local government has made a formal declaration of an emergency, eligible costs for correction of the emergency incurred from the date of such declaration, and approved by the public works board, will be eligible for reimbursement. Such eligible costs not reimbursed but incurred before a loan agreement is approved may be used by the local government as an element of its required local participation, if any, for the emergency public works project.

(8) All public works projects shall comply with the competitive bid requirement of RCW 43.155.060 to the extent feasible and practicable.

296-24-21703, 296-24-21707 and 296-24-21713. A state-initiated change to renumber a section to include appendices which were not previously numbered. The amended section is WAC 296-24-21713. State-initiated changes to incorporate WRD guidelines into the appropriate standard narrative. The amended sections with affected WRDs are WAC 296-24-012 (WRD 80-14 3rd Amendment), 296-24-150 (WRD 81-19), 296-24-15001 (WRDs 77-10 and 77-12), 296-24-16503 (WRD 77-66), 296-24-16517 (WRDs 77-2, 77-8 and 78-21), 296-24-195 (WRD 81-19), 296-24-20501 (WRD 77-38), WAC 296-24-20503 (WRD 77-38), 296-24-21511 (WRD 79-36), WAC 296-24-23529 (WRDs 80-24 Amended, 85-2 and 86-7), 296-24-260 (WRD 79-49), WAC 296-24-33011 (WRD 77-21), 296-24-37003 (WRD 78-28), 296-24-66313 (WRD 77-22 Amended), WAC 296-24-68201 (WRD 77-47), 296-24-73505 (WRD 77-34), WAC 296-24-75011 (WRD 77-9), 296-24-76511 (WRD 78-56), 296-24-92005 (WRD 77-36) and 296-24-94003 (WRD 77-65). A state-initiated change to remove exemptions for written emergency and fire protection plans, given employers with ten or less workers, to provide equal protection in all work places. The amended section is WAC 296-24-567; chapter 296-27 WAC is amended with: A state-initiated change to incorporate WRD guidelines into the appropriate standard narrative. The amended section is WAC 296-27-020 (WRD 80-14 3rd amendment); chapter 296-32 WAC is amended with: A state-initiated change to incorporate a direct reference to WAC 296-62-054 through 296-62-05427, the hazard communication program. The amended section is WAC 296-32-230; chapter 296-44 WAC is amended with: A state-initiated change to incorporate WRD guidelines into the appropriate standard narrative. The amended section is WAC 296-44-44009 (WRD 77-67); chapter 296-45 WAC is amended with: A state-initiated change to incorporate a direct reference to WAC 296-62-054 through 296-62-05427, the hazard communication program. The amended section is WAC 296-45-65009. State-initiated changes to incorporate WRD guidelines into the appropriate standard narrative. The new section is WAC 296-45-67545 (WRD 79-49). The amended section is WAC 296-45-65041 (WRD 77-63); chapter 296-54 WAC is amended with: A state-initiated change to incorporate a direct reference to WAC 296-62-054 through 296-62-05427, the hazard communication program. The amended section is WAC 296-54-507; chapter 296-56 WAC is amended with: State-initiated changes to incorporate WRD guidelines into the appropriate standard narrative. The amended sections are WAC 296-56-60069 (WRD 85-2) and 296-56-60103 (WRD 77-44). A state-initiated change to incorporate a direct reference to WAC 296-62-054 through 296-62-05427, the hazard communication program. The amended section is WAC 296-56-60001; chapter 296-59 WAC is amended with: A state-initiated change to incorporate WAC 296-62-054 through 296-62-05427, the hazard communication program. The amended section is WAC 296-59-005; chapter 296-62 WAC is amended with: Federal-initiated changes to be "identical" to comparable federal regulations, 29 CFR 1910.20,

## WSR 89-06-058

### PROPOSED RULES

### DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning:

|     |                 |   |
|-----|-----------------|---|
| Amd | ch. 296-24 WAC  | General safety and health standards.  |
| Amd | ch. 296-27 WAC  | Recordkeeping and reporting.  |
| Amd | ch. 296-32 WAC  | Safety standards for telecommunications workers.                              |
| Amd | ch. 296-44 WAC  | Safety standards for Electrical Construction Code.                            |
| Amd | ch. 296-45 WAC  | Safety standards for electrical workers.                                      |
| Amd | ch. 296-54 WAC  | Safety standards for logging operations.                                      |
| Amd | ch. 296-56 WAC  | Safety standards for longshore, stevedore and related waterfront operations.  |
| Amd | ch. 296-59 WAC  | Safety standards for ski area facilities and operations.                      |
| Amd | ch. 296-62 WAC  | General occupational health standards.  |
| Amd | ch. 296-78 WAC  | Safety standards for sawmills and woodworking operations.                     |
| Amd | ch. 296-79 WAC  | Safety standards for pulp, paper, paperboard mills, finishing and converters. |
| Amd | ch. 296-155 WAC | Safety standards for construction work.                                       |
| Amd | ch. 296-303 WAC | Safety standards for laundry machinery and operations.                        |
| Amd | ch. 296-304 WAC | Safety standards for ship repairing, ship building and ship breaking.         |
| Amd | ch. 296-305 WAC | Safety standards for firefighters.  |
| Amd | ch. 296-306 WAC | Safety standards for agriculture;   |

Chapter 296-24 WAC is amended with: Federal-initiated changes to be "identical" to OSHA rules published in Federal Register Volume 53, Number 174 dated September 8, 1988, concerning Multipiece and single-piece rim wheels. The amended sections are WAC

as published in Federal Registers Volume 53, Number 189 dated September 29, 1988, and Volume 53, Number 239 dated December 13, 1988, amending rules affecting access to employee exposure and medical records. Major changes are: First-aid and medical records of short-term employees are exempt from records retention requirements, microfilm storage of x-rays except chest x-rays is permitted, trade secrets are provided additional protection and are made to conform to the hazard communication standard requirements, union representatives are required to show an occupational need for requesting unconsented access to records and no industries are treated separately with respect to trade secret disclosure. The amended sections are WAC 296-62-052, 296-62-05201, 296-62-05203, 296-62-05205, 296-62-05207, 296-62-05209, 296-62-05211, 296-62-05213, 296-62-05215, 296-62-05217, 296-62-05219, 296-62-05221 and 296-62-05223. Federal-initiated changes to be at-least-as-effective-as (ALAEA) OSHA rules published in Federal Register Volume 53, Number 178 dated September 14, 1988, which establish short-term exposure limits for occupational exposure to asbestos, tremolite, anthophyllite, and actinolite. The amended sections are WAC 296-62-07703, 296-62-07705, 296-62-07709, 296-62-07711, 296-62-07712, 296-62-07713, 296-62-07717, 296-62-07719, 296-62-07721, 296-62-07725, 296-62-07731 and 296-62-07747. State-initiated housekeeping changes are being made to correct WAC references, narrative and clarify existing rules. The amended sections are WAC 296-62-07531, 296-62-07544, 296-62-07705, 296-62-07709, 296-62-07712, 296-62-07715, 296-62-07719, 296-62-07745, 296-62-300, 296-62-3110 and 296-62-3140; chapter 296-78 WAC is amended with: A state-initiated change to incorporate WRD guidelines into appropriate standard narrative. The amended section is WAC 296-78-56501 (WRD 78-8 amended). A state-initiated change to incorporate a direct reference to WAC 296-62-054 through 296-62-05427, the hazard communication program. The amended section is WAC 296-78-515; chapter 296-79 WAC is amended with: A state-initiated change to incorporate WRD guidelines into appropriate standard narrative. The amended section is WAC 296-79-050 (WRD 78-8 amended); chapter 296-155 WAC is amended with: A federal-initiated change to be at-least-as-effective-as (ALAEA) rules published in Federal Register Volume 52, Number 163 dated August 24, 1987, referencing a hazard communication program. The new section is WAC 296-155-180. Federal-initiated changes to be ALAEA rules published in Federal Register Volume 53, Number 148 dated August 2, 1988, concerning crane or derrick suspended personnel platforms. The new section is WAC 296-155-48536. The amended section is WAC 296-155-48533. Federal-initiated changes to be ALAEA rules published in Federal Register Volume 53, Number 116 dated June 16, 1988, concerning concrete and masonry construction. The new sections are WAC 296-155-681, 296-155-682, 296-155-683, 296-155-684, 296-155-686, 296-155-687, 296-155-688, 296-155-689, 296-155-691, 296-155-692, 296-155-694, 296-155-697 and 296-155-699. The amended sections are WAC 296-155-675, 296-155-

680, 296-155-685, 296-155-690 and 296-155-695. The repealed section is WAC 296-155-750. State-initiated changes to incorporate WRD guidelines into appropriate standard narrative. The amended sections are WAC 296-155-140 (WRD 86-1), 296-155-205 (WRD 86-4), 296-155-212 (WRD 86-5), 296-155-305 (WRD 86-3), 296-155-36313 (WRD 77-22), 296-155-370 (WRD 78-21) and 296-155-510 (WRD 78-56). A state-initiated housekeeping change to correct a numbering sequence. The amended section is WAC 296-155-48529; chapter 296-303 WAC is amended with: A state-initiated change to incorporate WRD guidelines into appropriate standard narrative. The amended sections are WAC 296-303-02007 (WRD 77-29) and 296-303-040 (WRD 77-1); chapter 296-304 WAC is amended with: A state-initiated change to incorporate WRD guidelines into appropriate standard narrative. The amended section is WAC 296-304-010 (WRD 78-10); chapter 296-305 WAC is amended with: A state-initiated change to incorporate a direct reference to WAC 296-62-054 through 296-62-05427, the hazard communication program. The amended section is WAC 296-305-025; and chapter 296-306 WAC is amended with: Federal-initiated changes to be ALAEA OSHA rules published in Federal Register Volume 52, Number 163 dated August 24, 1987, referencing a hazard communication program. The amended section is WAC 296-306-010. A federal-initiated change to incorporate amendments at-least-as-effective-as the federal rule for field sanitation as published in Federal Register Volume 52, Number 84 on May 1, 1987. The significant changes are the ratio of sanitation facilities per worker is being changed from 1 per 30 to 1 per 20; and there are revisions to delete the provision for substituting vehicular transportation for toilet facilities where locating toilet facilities within 1/4 mile is not feasible due to terrain. Toilet facilities now have to be located at the closest point of vehicular access. The amended sections are WAC 296-306-310 and 296-306-320. State-initiated changes to rename the chapter to read Safety standards for agriculture, and to incorporate WRD guidelines into appropriate standard narrative. The amended sections are WAC 296-306-165 (WRDs 77-26 and 78-14) and 296-306-200 (WRD 77-26);

that the agency will at 9:30 a.m., Thursday, April 13, 1989, in the General Administration Building, West Capitol Campus, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 15, 1989.

The authority under which these rules are proposed is chapters 34.04 and 49.17 RCW and chapter 1-12 WAC.

The specific statute these rules are intended to implement is chapter 19.29 RCW, RCW 49.17.040, 49.17.050 and 49.17.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., Thursday, April 13, 1989.

Dated: March 1, 1989

By: Joseph A. Dear  
Director

## STATEMENT OF PURPOSE

**Title and Number of Rule Section(s) or Chapter(s):** Amending WAC 296-24-012 Definitions applicable to all sections of this chapter, 296-24-150 Machinery and machine guarding—General requirements for all machines—Scope and application, 296-24-15001 Machine guarding, 296-24-16503 Machine construction general, 296-24-16517 Radial saws, 296-24-195 Mechanical power presses, 296-24-20501 Definitions, 296-24-20503 General requirements, 296-24-21511 Rolling railroad cars, 296-24-21703 Definitions, 296-24-21707 Tire servicing, 296-24-21713 Safe operating procedures—Single-piece rim wheels, 296-24-23529 Operators, 296-24-260 Helicopters, 296-24-33011 Industrial plants, 296-24-37003 Spray booths, 296-24-567 Employee emergency plans and fire prevention plans, 296-24-66313 Operation, 296-24-68201 General requirements, 296-24-73505 Aisles and passageways, 296-24-75011 Railings, toeboards, and cover specifications, 296-24-76511 Angle of stairway rise, 296-24-92005 Inspection of low-pressure cylinders exempt from the hydrostatic test including acetylene cylinders, 296-24-94003 Installation and equipment requirements, 296-27-020 Definitions, 296-32-230 Training, 296-44-44009 General, 296-45-65009 Employer's responsibility, 296-45-65041 Aerial manlift equipment, 296-54-507 Management's responsibility, 296-56-60001 Scope and applicability, 296-56-60069 Personnel, 296-56-60103 Terminals handling intermodal containers or roll-on roll-off operations, 296-59-005 Incorporation of other standards, 296-62-052 Access to employee exposure and medical records, 296-62-05201 Purpose, 296-62-05203 Scope and application, 296-62-05205 Definitions applicable to this chapter, 296-62-05207 Preservation of records, 296-62-05209 Access to records, 296-62-05211 Trade secrets, 296-62-05213 Employee information, 296-62-05215 Transfer of records, 296-62-05217 Appendices, 296-62-05219 Effective date, 296-62-05221 Appendix A—Sample authorization letter for the release of employee medical record information to a designated representative, 296-62-05223 Appendix B—Availability of NIOSH registry of toxic effects of chemical substances (RTECS), 296-62-07531 Appendix D—Sampling and analytical methods for monitoring and measurement procedures, 296-62-07544 Appendix B—Sampling strategy and analytical methods for formaldehyde, 296-62-07705 Permissible exposure limits, 296-62-07709 Exposure monitoring, 296-62-07711 Regulated areas, 296-62-07712 Requirements for asbestos removal, demolition, and renovation operations, 296-62-07713 Methods of compliance, 296-62-07715 Respiratory protection, 296-62-07717 Protective work clothing and equipment, 296-62-07719 Hygiene facilities and practices, 296-62-07721 Communication of hazards to employees, 296-62-07725 Medical surveillance, 296-62-07731 Dates, 296-62-07745 Appendix F—Work practices and engineering controls for automotive brake repair operations—Nonmandatory, 296-62-300 Scope, application and definitions, 296-62-3110 Emergency response, 296-62-3140 Certain operations conducted under the Resource Conservation and Recovery Act of

1976 (RCRA), 296-78-515 Management's responsibility, 296-78-56501 Log dumps and ponds, 296-79-050 Personal protection, 296-155-140 Sanitation, 296-155-205 Head protection, 296-155-212 Foot protection, 296-155-305 Signaling, 296-155-36313 Operation, 296-155-370 Woodworking tools, 296-155-48529 Boom supported elevating work platforms, 296-155-48533 Crane or derrick suspended personnel platforms, 296-155-510 Stairways, 296-155-675 Scope, application, and definitions applicable to this part, 296-155-680 General provisions, 296-155-685 Tubular welded frame shoring, 296-155-690 Appendix to WAC 296-155-684 (Cast in place concrete), 296-155-695 Miscellaneous concrete construction, 296-303-02007 Miscellaneous machines and equipment, 296-303-040 Starting and stopping devices, 296-304-010 Scope and application, 296-305-025 Employer's responsibility, chapter 296-306 WAC rename chapter to read Safety standards for agriculture, 296-306-010 Purpose and scope 296-306-165 General requirements for all agricultural equipment, 296-306-200 Rollover protective structures (ROPS) for tractors used in agricultural operations 296-306-310 Field sanitation—Definitions and 296-306-320 Field sanitation—Requirements; new sections WAC 296-45-67545 Refueling operations, 296-155-180 Hazard communication, 296-155-48536 Forklift elevated personnel platforms, 296-155-681 Safe walking surfaces on concrete structural members, 296-155-682 Requirements for equipment and tools, 296-155-683 Concrete finishing, 296-155-684 Requirements for cast-in-place concrete, 296-155-686 Tube and coupler shoring, 296-155-687 Single post shores, 296-155-688 Vertical slip forms, 296-155-689 Placing and removal of forms, 296-155-691 Precast concrete and tilt-up operations, 296-155-692 Requirements for lift slab operations, 296-155-694 Appendix to WAC 296-155-692 (Lift slab), 296-155-697 Requirements for masonry construction and 296-155-699 Appendix A to Part O; and repealing WAC 296-155-750 Masonry construction.

**Statutory Authority:** Chapters 49.17 and 34.04 RCW and chapter 1-12 WAC.

**Specific Statutes that Rules are Intended to Implement:** RCW 49.17.040, 49.17.050, 49.17.060 and chapter 19.29 RCW.

**Summary of Rule(s):** See above.

**Description of the Purpose of the Rule(s):** To ensure a healthful and safe workplace for all employees in the state of Washington.

**Reasons for Supporting the Proposed Rule(s):** To ensure a safe and healthful working environment for Washington state workers.

**Agency Personnel Responsible for Drafting:** Ray Wax, Safety Regulations Program Supervisor, Department of Labor and Industries, Division of Industrial Safety and Health, 805 Plum Street S.E., Olympia, WA 98504, phone (206) 753-6381; Implementation and Enforcement: G. David Hutchins, Assistant Director, Department of Labor and Industries, Division of Industrial Safety and Health, 805 Plum Street S.E., Olympia, WA 98504, phone (206) 753-6500.

**Name of Person or Organization, Whether Private, Public or Governmental that is Proposing the Rule(s):**  
Washington State Department of Labor and Industries.

**Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s):**  
Twenty-nine individual statements are shown below.

**Small Business Economic Impact Statement:** The adoption of agency rules often results in some economic impact. The Washington Regulatory Fairness Act, chapter 19.85 RCW, was enacted by the legislature in 1982 to reduce the imposition of proportionately higher economic impact on small businesses in comparison with large businesses. The act defines a small business as an employer with 50 or less employees. The act requires that when proposed agency rules will have economic impact on more than 20 percent of all industries or more than 10 percent of the businesses in one industry, the proposed rules shall be reviewed to determine if disproportionate cost influence exists between large and small business. Following a positive determination that disproportionate cost impact exists, the agency is required to reduce the economic impact on small business where possible within the guidelines provided in chapter 19.85 RCW.

**General safety and health standards, chapter 296-24 WAC.** Proposed amendments to WAC 296-24-012, 296-24-150, 296-24-15001, 296-24-16503, 296-24-16517, 296-24-195, 296-24-20501, 296-24-20503, 296-24-21511, 296-24-23529, 296-24-260, 296-24-33011, 296-24-37003, 296-24-66313, 296-24-68201, 296-24-73505, 296-24-75011, 296-24-76511, 296-24-92005 and 296-24-94003.

With respect to the proposed amendment to chapter 296-24 WAC, the findings of the agency are as follows:

The proposed amendments to the rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the amended rules do not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and applications of the standard. All clarifications being incorporated currently exist in a WISHA regional directive which will be deleted upon adoption of these changes.

**General safety and health standards, chapter 296-24 WAC.** Proposed amendments to WAC 296-24-21703, 296-24-21707 and 296-24-21713.

With respect to the proposed amendment to chapter 296-24 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The proposed amendments are updates on technical information and impose no new requirements and will have no adverse differential impact on employers.

**General safety and health standards, chapter 296-24 WAC.** Proposed amendments to WAC 296-24-567.

With respect to the proposed amendment to chapter 296-24 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

Affected employers are required to develop and implement a program for emergency and fire prevention.

The proposed amendments requires employers to reduce their plans to written format and should produce no differential economic impact which is more significant to small companies than it is to larger companies.

**Recordkeeping and reporting, chapter 296-27 WAC.**

Proposed amendments to WAC 296-27-020.

With respect to the proposed amendment to chapter 296-27 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rule, as amended, will not influence or change the cost to any employer coming into compliance as the amended rule does not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and applications of the standard. All explanations and clarifications into the standard are currently utilized by a WISHA regional directive which will be deleted upon adoption of this change.

**Safety standards for telecommunication workers, chapter 296-32 WAC.** Proposed amendment to WAC 296-32-230.

With respect to the proposed amendment to chapter 296-32 WAC, the findings of the agency are as follows:

The proposed adoption of these rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The new subsection WAC 296-32-230(6) references the requirements currently applicable to affected employers, imposes no new requirements, and therefore will have no adverse differential economic effect on small firms.

**Safety standards for electrical construction, chapter 296-44 WAC.** Proposed amendments to WAC 296-44-4409.

With respect to the proposed amendment to chapter 296-44 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rule, as amended, will not influence or change the cost to any employer coming into compliance as the

amended rule does not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and application. All clarifications being incorporated currently exist in a WISHA regional directive which will be deleted after adoption of this change.

**Safety standards for electrical workers, chapter 296-45 WAC. Proposed amendment to WAC 296-45-65009.**

With respect to the proposed amendment to chapter 296-45 WAC, the findings of the agency are as follows:

The proposed adoption of these rules potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The addition of WAC 296-45-65009(2) references the requirements currently applicable to affected employers, and imposes no new compliance requirements.

**Safety standards for electrical workers, chapter 296-45 WAC. Proposed amendments to WAC 296-45-65041 and new WAC 296-45-67545.**

With respect to the proposed amendment to chapter 296-45 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the amended rule do not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and application. All clarifications being incorporated currently exist in a WISHA regional directive which will be deleted after adoption of this change.

**Safety standards for logging operations, chapter 296-54 WAC. Proposed amendments to WAC 296-54-507.**

With respect to the proposed amendment to chapter 296-54 WAC, the findings of the agency are as follows:

The proposed adoption of these rules potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The addition of WAC 296-54-507(2) references the requirement for a hazard communication program as prescribed in WAC 296-62-054 through 296-62-05427. No adverse economic impact will result, as no new requirements are imposed.

**Safety standards for longshore, stevedore, and related waterfront operations, chapter 296-56 WAC. Proposed amendments to WAC 296-56-60001.**

With respect to the proposed amendment to chapter 296-56 WAC, the findings of the agency are as follows:

The proposed amendments to the rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The amendment to WAC 296-56-60001 (3)(b) provides clarification to requirements already applicable to

affected employers, imposes no new requirements, and will have no adverse economic impact on small businesses.

**Safety standards for longshore, stevedore, and related waterfront operations, chapter 296-56 WAC. Proposed amendments to WAC 296-56-60069 and 296-56-60103.**

With respect to the proposed amendment to chapter 296-56 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the amended rules do not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and application of the standard. All clarifications being incorporated currently exist in a WISHA regional directive which will be deleted after adoption of these changes.

**Safety standards for ski facilities, chapter 296-59 WAC. Proposed amendment to WAC 296-59-005.**

With respect to the proposed amendment to chapter 296-59 WAC, the findings of the agency are as follows:

The proposed adoption of these rules potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The addition of a new subsection WAC 296-59-005(5) references requirements currently applicable to affected employers, and imposes no new requirements on employers.

**General occupational health standards, chapter 296-62 WAC. Proposed amendments to WAC 296-62-052, 296-62-05201, 296-62-05203, 296-62-05205, 296-62-05207, 296-62-05209, 296-62-05211, 296-62-05213, 296-62-05215, 296-62-05217, 296-62-05219, 296-62-05221 and 296-62-05223.**

With respect to the proposed amendment to chapter 296-62 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will leave intact most of the provisions of the current rule. The sections of this change that differ from the current rule (e.g., allowing the minification of x-rays other than chest x-rays, providing greater trade secret protection, and excluding first-aid records, and elimination of record retention for short-term employees) will actually reduce costs of the current rule with no diminution of the rule's benefits. The rule, as amended will also not have any disproportionate economic impact on small entities. The impact was determined to be insignificant. (For detail of assessment and flexibility, see 53 FR 38161.)

**General occupational health standards, chapter 296-62 WAC.** Proposed amendments to 296-62-07531, 296-62-07544, 296-62-07703, 296-62-07705, 296-62-07709, 296-62-07711, 296-62-07712, 296-62-07713, 296-62-07715, 296-62-07717, 296-62-07719, 296-62-07721, 296-62-07725, 296-62-07731, 296-62-07745 and 296-62-07747.

With respect to the proposed amendment to chapter 296-62 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules as amended may possibly require an increase, by some employers, in the number of samples required to achieve compliance. There should, however, have no adverse, differential, economic effect on small businesses.

State-initiated correction of sentence duplication in WAC 296-62-07709 (2)(c) will cause no adverse differential economic effect on small businesses.

**General occupational health standards, chapter 296-62 WAC.** Proposed amendments to WAC 296-62-300, 296-62-3110 and 296-62-3140.

With respect to the proposed amendment to chapter 296-62 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the amended rules do not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and application of the standard. All clarifications being incorporated currently exist in a WISHA regional directive which will be deleted after adoption of these changes.

**Safety standards for sawmills and woodworking operations, chapter 296-78 WAC.** Proposed amendment to WAC 296-78-515.

With respect to the proposed amendment to chapter 296-78 WAC, the findings of the agency are as follows:

The proposed adoption of these rules potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The addition of WAC 296-78-515(2) references requirements currently applicable to affected employers, and imposes no new requirements.

**Safety standards for sawmills and woodworking operations, chapter 296-78 WAC.** Proposed amendments to WAC 296-78-56501.

With respect to the proposed amendment to chapter 296-78 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under

the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rule, as amended, will not influence or change the cost to any employer coming into compliance as the amended rule does not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and application of the standard. All clarifications being incorporated currently exist in a WISHA regional directive which will be deleted after adoption of the change.

**Safety standards for pulp, paper, paperboard mills, finishing and convertors, chapter 296-79 WAC.**

Proposed amendments to WAC 296-79-050.

With respect to the proposed amendment to chapter 296-79 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rule, as amended, will not influence or change the cost to any employer coming into compliance as the amended rule does not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and application of the standard. All clarifications being incorporated currently exist in a WISHA regional directive which will be deleted after adoption of the change.

**Safety standards for construction, chapter 296-155 WAC.** Proposed amendments to WAC 296-155-140,

296-155-205, 296-155-212, 296-155-305, 296-155-36313, 296-155-370 and 296-155-510.

With respect to the proposed amendment to chapter 296-155 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the amended rules do not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and application of the standard. All clarifications being incorporated currently exist in a WISHA regional directive which will be deleted after adoption of the change.

**Safety standards for construction work, chapter 296-155 WAC.** Establishment of a new section WAC 296-155-180.

With respect to the proposed amendment to chapter 296-155 WAC, the findings of the agency are as follows:

The proposed adoption of these rules potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The Federal Occupational Safety and Health Administration (OSHA) has conducted a full regulatory impact analysis, in Federal Register Volume 53, Number 163, dated August 24, 1987.

The agency proposing the WAC amendments is not aware of any unique operating conditions in the state of Washington which would result in cost factors substantially different than those published in the identified OSHA analysis.

The new section WAC 296-155-180 references hazard communication program requirements published in WAC 296-62-054 through 296-62-05427, which are already applicable to affected employers, to remain at least-as-effective-as Federal Register Volume 53, Number 164, dated August 24, 1987, and imposes no new requirements.

Safety standards for construction work, chapter 296-155 WAC. Proposed amendments to WAC 296-155-48529.

With respect to the proposed amendment to chapter 296-155 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The change corrects paragraph numbering in subsection (19). The change does not affect compliance requirements, therefore there will be no economic impact as a result of this change.

Safety standards for construction work, chapter 296-155 WAC. Proposed amendments to WAC 296-155-48533 and establishment of a new section WAC 296-155-48536.

With respect to the proposed amendment to chapter 296-155 WAC, the findings of the agency are as follows:

The proposed adoption of these rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The Federal Occupational Safety and Health Administration (OSHA) has conducted a full regulatory impact analysis, in Federal Register Volume 53, Number 148, dated August 2, 1988.

The agency proposing the WAC amendments is not aware of any unique operating conditions in the state of Washington which would result in cost factors substantially different than those published in the identified OSHA analysis.

The addition of a new section WAC 296-155-48536 Forklift elevated work platforms, relocates rules formerly codified in WAC 296-155-48533 and imposes no new requirements.

Safety standards for construction work, chapter 296-155 WAC. Proposed amendments to WAC 296-155-675, 296-155-680, 296-155-685, 296-155-690 and 296-155-695; and addition of new sections WAC 296-155-681, 296-155-682, 296-155-683, 296-155-684, 296-155-686, 296-155-687, 296-155-688, 296-155-689, 296-155-691, 296-155-692, 296-155-694, 296-

155-697 and 296-155-699; and repealing WAC 296-155-750.

With respect to the proposed amendment to chapter 296-155 WAC, the findings of the agency are as follows:

The proposed adoption of these rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The Federal Occupational Safety and Health Administration (OSHA) has conducted a full regulatory impact analysis, in Federal Register Volume 53, Number 116, dated June 16, 1988.

The agency proposing the WAC amendments is not aware of any unique operating conditions in the state of Washington which would result in cost factors substantially different than those published in the identified OSHA analysis.

Safety standards for laundry machinery and operations, chapter 296-303 WAC. Proposed amendments to WAC 296-303-02007 and 296-303-040.

With respect to the proposed amendment to chapter 296-303 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the amended rules do not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and application of the standard. All clarifications being incorporated currently exist in a WISHA regional directive which will be deleted after adoption of this change.

Safety standards for ship repairing, shipbuilding and shipbreaking, chapter 296-304 WAC. Proposed amendments to WAC 296-304-010.

With respect to the proposed amendment to chapter 296-304 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rule, as amended, will not influence or change the cost to any employer coming into compliance as the amended rule does not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and application of the standard. All clarifications being incorporated currently exist in a WISHA regional directive which will be deleted after adoption of this change.

Safety standards for firefighters, chapter 296-305 WAC. Proposed amendment to WAC 296-305-025.

With respect to the proposed amendment to chapter 296-305 WAC, the findings of the agency are as follows:

The proposed adoption of these rules potentially influence any and all employers having workplaces under the

jurisdiction of the Department of Labor and Industries in the state of Washington.

The addition of WAC 296-305-025(6) references rules currently applicable to affected employers, and imposes no new requirements.

**Safety standards for agricultural code, chapter 296-306 WAC. Proposed amendments to WAC 296-306-010.**

With respect to the proposed amendment to chapter 296-306 WAC, the findings of the agency are as follows:

The proposed adoption of these rules potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The addition of a new subsection WAC 296-306-010(5) references the requirement for a hazard communication program as prescribed in WAC 296-62-054 through 296-62-05427, to be at-least-as-effective-as Federal Register Volume 52, Number 163 dated August 24, 1987.

This amendment references rules already applicable to employers and imposes no new requirements.

**Safety standards for agricultural code, chapter 296-306 WAC. Proposed amendments to WAC 296-306-165 and 296-306-200.**

With respect to the proposed amendment to chapter 296-306 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the amended rules do not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and application of the standard. All clarifications being incorporated currently exist in a WISHA regional directives which will be deleted after adoption of this change.

**Safety standards for agricultural code, chapter 296-306 WAC. Proposed amendments to WAC 296-306-310 and 296-306-320.**

With respect to the proposed amendment to chapter 296-306 WAC, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The proposed standard amendments require all employers to provide sanitation facilities (toilets and hand-wash) in a ratio of one facility for every 20 employees in lieu of the original adoption requirement of one for every 30 employees. This requirement will result in a higher cost per employee for employers of more than 20 employees.

The proposed amendments will also require employers to provide toilet facilities at the closest point of vehicular access where it is not feasible to locate a toilet facility within 1/4 mile due to terrain. Previously, the employer

was allowed to substitute vehicular transportation to toilet facilities. This will result in employers having to provide additional toilet facilities if the crews in the affected field are substantially less than 20 workers. However, the employer will not have to provide a vehicle for transportation. The toilet and vehicle should offset each other regarding cost impact in most cases. It is mandated that state requirements be at-least-as-effective-as any federal rules that are promulgated. The federal field sanitation rule was adopted in Federal Register Volume 52, Number 48 on May 1, 1987. The WISHA rule is being amended to meet these requirements.

The impact on agricultural employers in the state of Washington is expected to be approximately plus or minus four percent of annual receipts. Details of expected impacts are explained in the OSHA federal register under technological feasibility and units costs beginning on page 16074. The figures discussed in the register could vary widely throughout the state as they are based on averages.

**AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)**

**WAC 296-24-012 DEFINITIONS APPLICABLE TO ALL SECTIONS OF THIS CHAPTER.**

**Note:** Meaning of words. Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

(1) "Approved" means approved by the director of the department of labor and industries or his authorized representative: PROVIDED, HOWEVER, That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Bureau of Mines, the provisions of WAC 296-24-006 shall apply.

(2) "Authorized person" means a person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.

(3) "Competent person" means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective action to eliminate them.

(4) "Department" means the department of labor and industries.

(5) "Director" means the director of the department of labor and industries, or his designated representative.

(6) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: PROVIDED, That any person, partnership, or business entity not having employees, and who is covered by the industrial insurance act shall be considered both an employer and an employee.

(7) "First-aid" means, for purposes of this section, the extent of treatment that could be expected to be given by a person trained in basic first-aid, using supplies from a first-aid kit. Tests, such as x-rays, shall not be confused with treatment.

(8) "Hazard" means that condition, potential or inherent, which can cause injury, death, or occupational disease.

((8)) (9) "Hospitalization" means to be sent to; to go to; or be admitted to a hospital or an equivalent medical facility and receive medical treatment beyond that which would be considered as first-aid treatment, regardless of the length of stay in the hospital or medical facility.

(10) "Qualified" means one who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his ability to solve or resolve problems relating to the subject matter, the work, or the project.

((9)) (11) "Safety factor" means the ratio of the ultimate breaking strength of a member or piece of material or equipment to the actual working stress or safe load when in use.

((10)) (12) "Safety and health standard" means a standard which requires the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

((11)) (13) "Shall" means mandatory.

((12)) (14) "Should" means recommended.

((13)) (15) "Standard safeguard" means a device designed and constructed with the object of removing the hazard of accident incidental to the machine, appliance, tool, building, or equipment to which it is attached.

Standard safeguards shall be constructed of either metal or wood or other suitable material or a combination of these. The final determination of the sufficiency of any safeguard rests with the director of the department of labor and industries through the division of safety.

((14)) (16) "Suitable" means that which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

((15)) (17) "Working day" means a calendar day, except Saturdays, Sundays, and legal holidays as set forth in RCW 1.16.050, as now or hereafter amended, and for the purposes of the computation of time within which an act is to be done under the provisions of this chapter, shall be computed by excluding the first working day and including the last working day.

((16)) (18) "Workmen," "personnel," "man," "person," "employee," and other terms of like meaning, unless the context of the provision containing such term indicates otherwise, mean an employee of an employer who is employed in the business of his employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his personal labor for an employer whether by manual labor or otherwise.

((17)) (19) "Work place" means any plant, yard, premises, room, or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control, and includes, but is not limited to, all work places covered by industrial insurance under Title 51 RCW, as now or hereafter amended.

((18)) (20) Abbreviations used in this chapter:

(a) "ANSI" means American National Standards Institute.

(b) "API" means American Petroleum Institute.

(c) "ASA" means American Standards Association.

(d) "ASAE" means American Society of Agricultural Engineers.

(e) "ASHRE" means American Society of Heating and Refrigeration Engineers.

(f) "ASME" means American Society for Mechanical Engineers.

(g) "ASTM" means American Society for Testing and Materials.

(h) "AWS" means American Welding Society.

(i) "BTU" means British thermal unit.

(j) "BTUH" means British thermal unit per hour.

(k) "CFM" means cubic feet per minute.

(l) "CFR" means Code of Federal Register.

(m) "CGA" means Compressed Gas Association.

(n) "CIE" means Commission Internationale de l' Eclairage.

(o) "DOT" means department of transportation.

(p) "FRP" means fiberglass reinforced plastic.

(q) "GPM" means gallons per minute.

(r) "ICC" means Interstate Commerce Commission.

(s) "ID" means inside diameter.

(t) "LPG" means liquefied petroleum gas.

(u) "MCA" means Manufacturing Chemist Association.

(v) "NBFU" means National Board of Fire Underwriters.

(w) "NEMA" means National Electrical Manufacturing Association.

(x) "NFPA" means National Fire Protection Association.

(y) "NTP" means normal temperature and pressure.

(z) "OD" means outside diameter.

(aa) "PSI" means pounds per square inch.

(bb) "PSIA" means pounds per square inch atmospheric.

(cc) "PSIG" means pounds per square inch gauge.

(dd) "RMA" means Rubber Manufacturers Association.

(ee) "SAE" means Society of Automotive Engineers.

(ff) "TFI" means The Fertilizer Institute.

(gg) "TSC" means Trailer Standard Code.

(hh) "UL" means Underwriters' Laboratories, Inc.

(ii) "USASI" means United States of America Standards Institute.

(jj) "USC" means United States Code.

(kk) "USCG" means United States Coast Guard.

(ll) "WAC" means Washington Administrative Code.

(mm) "WISHA" means Washington Industrial Safety and Health Act of 1973.

#### AMENDATORY SECTION (Amending Order 74-27, filed 5/7/74)

WAC 296-24-150 MACHINERY AND MACHINE GUARDING—GENERAL REQUIREMENTS FOR ALL MACHINES—SCOPE AND APPLICATION. (1) All sections of this chapter which include WAC 296-24-150 in the section number apply to machinery and machine guarding.

(2) All sections which include WAC 296-24-150 in the section number also applies to combination, multipurpose powered machines, commonly referred to as "iron workers," that punch, shear, notch, cope, and form metals or other materials and to single-end punches, double-end punches, structural shearing machines, notching machines, coping machines, beam punches, detail punches, and spacing punches. It also applies to machines similar in construction and function to mechanical power presses, but which are specifically identified by the respective manufacturers as "iron workers," and to machines whose most distinguishing feature is the multiple work stations at which various operations may be performed singly or simultaneously, including, but not limited to, punching, shearing, notching, coping, and forming.

(3) Mechanical powered machines that shear, punch, form, or assemble metal or material by means of tools or dies attached to slides, and are identified by their respective manufacturers as "mechanical power presses" are regulated by sections which include WAC 296-24-195 in the subsection number.

#### AMENDATORY SECTION (Amending Order 74-27, filed 5/7/74)

WAC 296-24-15001 MACHINE GUARDING. (1) Types of guarding. One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks. Examples of guarding methods are—barrier guards, two-hand tripping devices, electronic safety devices, etc.

(2) General requirements for machine guards. Guards shall be affixed to the machine where possible and secured elsewhere if for any reason attachment to the machine is not possible. The guard shall be such that it does not offer an accident hazard in itself.

(3) Point of operation guarding.

(a) Point of operation is the area on a machine where work is actually performed upon the material being processed.

(b) The point of operation of machines whose operation exposes an employee to injury, shall be guarded. The guarding device shall be in conformity with any appropriate standards therefor, or, in the absence of applicable specific standards, shall be so designed and constructed as to prevent the operator from having any part of his body in the danger zone during the operating cycle.

(c) Circular meat cutting saws shall be guarded in one of the following ways:

(i) A suspended counter-balanced circular meat cutting saw that requires two-handed operation shall be deemed adequately guarded if provided with a guard that covers at least twenty-five degrees of the circumference of the blade and it conforms to the requirements of (c)(iv) of this subsection.

(ii) A suspended counter-balanced circular meat cutting saw that requires only one-handed operation shall be deemed adequately guarded if provided with a guard that covers at least ninety degrees of the circumference of the blade and it conforms to the requirements of (c)(iv) of this subsection.

(iii) A nonsuspended circular meat saw, either one-handed or two-handed operation, shall be deemed adequately guarded if provided with a guard that covers at least ninety degrees of the circumference of the blade and it conforms to the requirements of (c)(iv) of this subsection.

(iv) All circular meat cutting saws shall conform to the following:

(A) A "deadman" control shall be required.

(B) The guard protecting the operator from contact with the blade shall be located between the operator and the blade.

(C) The maximum number of degrees of circumferential guarding of the blade shall be provided based on specific applications in meat cutting operations.

(D) A brake that automatically activates upon release of the operating control(s) is required.

(d) Special handtools for placing and removing material shall be such as to permit easy handling of material without the operator placing a hand in the danger zone. Such tools shall not be in lieu of other guarding required by this section, but can only be used to supplement protection provided.

((t+)) (e) The following are some of the machines which usually require point of operation guarding((:));

- (i) Guillotine cutters.
- (ii) Shears.
- (iii) Alligator shears.
- (iv) Power presses.
- (v) Milling machines.
- (vi) Power saws.
- (vii) Jointers.
- (viii) Portable power tools.
- (ix) Forming rolls and calenders.

(4) Barrels, containers, and drums. Revolving drums, barrels, and containers shall be guarded by an enclosure which is interlocked with the drive mechanism, so that the barrel, drum, or container cannot revolve unless the guard enclosure is in place.

(5) Exposure of blades. When the periphery of the blades of a fan is less than seven feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one-half inch. Safeguards shall be so constructed that rods, pipes, or like material being handled by workmen will not enter same, and come in contact with moving machinery. Fan blade guards of any material are acceptable where the material provides protection to workers and meets the requirements of figure O-12 of WAC 296-24-18005(5).

(6) Cams and other machine parts which move in such a manner as to create shearing or crushing hazards shall, if exposed to contact, be guarded with a standard safeguard.

#### AMENDATORY SECTION (Amending Order 83-19, filed 7/13/83, effective 9/12/83)

WAC 296-24-16503 MACHINE CONSTRUCTION GENERAL. (1) Each machine shall be so constructed as to be free from sensible vibration when the largest size tool is mounted and run idle at full speed.

(2) Arbors and mandrels shall be constructed so as to have firm and secure bearing and be free from play.

(3) Any automatic cutoff saw that power strokes continuously without the operator being able to control each stroke shall not be used in work situations where employees are exposed to hazards during loading, clamping, cut-off, unloading operations, etc.

(4) Saw frames or tables shall be constructed with lugs cast on the frame or with an equivalent means to limit the size of the saw blade that can be mounted, so as to avoid overspeed caused by mounting a saw larger than intended.

(5) Circular saw fences shall be so constructed that they can be firmly secured to the table or table assembly without changing their alignment with the saw. For saws with tilting tables or tilting arbors the fence shall be so constructed that it will remain in a line parallel with the saw, regardless of the angle of the saw with the table.

(6) Circular saw gages shall be so constructed as to slide in grooves or tracks that are accurately machined, to insure exact alignment with the saw for all positions of the guide.

(7) Hinged saw tables shall be so constructed that the table can be firmly secured in any position and in true alignment with the saw.

(8) All belts, pulleys, gears, shafts, and moving parts shall be guarded in accordance with the specific requirements of WAC 296-24-20501 through 296-24-20533.

(9) It is recommended that each power-driven machine be provided with a disconnect switch that can be locked in the off position.

(10) The frames and all exposed, noncurrent-carrying metal parts of portable electric machinery operated at more than 90 volts to ground shall be grounded and other portable motors driving electric tools which are held in the hand while being operated shall be grounded if they operate at more than 90 volts to ground. The ground shall be provided through use of a separate ground wire and polarized plug and receptacle.

(11) For all circular saws where conditions are such that there is a possibility of contact with the portion of the saw either beneath or behind the table, that portion of the saw shall be covered with an exhaust hood, or, if no exhaust system is required, with a guard that shall be so arranged as to prevent accidental contact with the saw.

(12) Revolving double arbor saws shall be fully guarded in accordance with all the requirements for circular crosscut saws or with all the requirements for circular ripsaws, according to the kind of saws mounted on the arbors.

(13) No saw, cutter head, or tool collar shall be placed or mounted on a machine arbor unless the tool has been accurately machined to size and shape to fit the arbor.

(14) Combs (featherboards) or suitable jigs shall be provided at the workplace for use when a standard guard cannot be used, as in dadoing, grooving, jointing, moulding and rabbeting.

#### AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-16517 RADIAL SAWS. (1) The upper hood shall completely enclose the upper portion of the blade down to a point that will include the end of the saw arbor. The upper hood shall be constructed in such a manner and of such material that it will protect the operator from flying splinters, broken saw teeth, etc., and will deflect sawdust away from the operator. The sides of the lower exposed portion of the blade shall be guarded to the full diameter of the blade by a device that will automatically adjust itself to the thickness of the stock and remain in contact with stock being cut to give maximum protection possible for the operation being performed.

(2) Each radial saw used for ripping shall be provided with non-kickback fingers or dogs located on both sides of the saw so as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator. They shall be designed to provide adequate holding power for all the thickness of material being cut.

(3) An adjustable stop shall be provided to prevent the forward travel of the blade beyond the position necessary to complete the cut ((in repetitive operations)).

(4) Installation shall be in such a manner that the front end of the unit will be slightly higher than the rear, so as to cause the cutting head to return ((gently)) to the starting position in the following manner when released by the operator:

(a) The cutting head or carriage shall return to the rest or starting position in a gentle motion;

(b) The cutting head or carriage shall not bounce or recoil when reaching the rest or starting position; and

(c) The cutting head or carriage will remain in the rest or starting position.

(5) Ripping and ploughing shall be against the direction in which the saw turns. The direction of the saw rotation shall be conspicuously marked on the hood. In addition, a permanent label not less than 1 1/2 inches by 3/4 inch with standard proportional lettering shall be affixed to the rear of the guard hood at approximately the level of the arbor, where the blade teeth exit the upper hood during the operation of the saw, reading as follows: "Danger: Do not rip or plough from this end." Such a label ((should)) shall be colored standard danger red.

#### AMENDATORY SECTION (Amending Order 76-6, filed 3/1/76)

WAC 296-24-195 MECHANICAL POWER PRESSES. (1) Mechanical powered machines that shear, punch, form, or assemble metal or material by means of tools or dies attached to slides, and are identified by their respective manufacturers as "mechanical power presses" are regulated by sections which include WAC 296-24-195 in the subsection number.

(2) Combination, multipurpose powered machines, commonly referred to as "iron workers," that punch, shear, notch, cope, and form metals or other materials, single-end punches, double-end punches, structured shearing machines, notching machines, coping machines, beam punches, detail punches, and spacing punches, machines similar in construction and function to mechanical power presses, but which are specifically identified by the respective manufacturers as "iron workers," and machines whose distinguishing feature is the multiple work stations at which various operations may be performed singly or simultaneously, including, but not limited to, punching, shearing, notching, coping, and forming shall be regulated by subsections which include WAC 296-24-150 in the subsection number.

#### AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-20501 DEFINITIONS. (1) "Belts" include all power transmission belts, such as flat belts, round belts, V-belts, etc., unless otherwise specified.

(2) "Belt shifter" means a device for mechanically shifting belts from tight to loose pulleys or vice versa, or for shifting belts on cones of speed pulleys.

(3) "Belt pole" (sometimes called a "belt shipper" or "shipper pole") means a device used in shifting belts on and off fixed pulleys on line or countershaft where there are no loose pulleys.

(4) "Enclosed" for vertical and inclined belts means that only the portion of a belt that is seven feet or less from the floor is required to be enclosed by a guard.

(5) "Exposed to contact" means that the location of an object is such that a person is likely to come into contact with it and be injured.

((6)) (6) "Flywheels" include flywheels, balance wheels, and flywheel pulleys mounted and revolving on crankshaft of engine or other shafting.

((6)) (7) "Fully enclosed" applies to the sides of a power transmission system not guarded by location as described in WAC 296-24-20511 (1)(a), which includes both runs of a horizontal belt, pulley, and flywheel. Small units with slightly inclined belts are included in this category.

(8) "Maintenance runway" means any permanent runway or platform used for oiling, maintenance, running adjustment, or repair work, but not for passageway.

((7)) (9) "Nip-point belt and pulley guard" means a device which encloses the pulley and is provided with rounded or rolled edge slots through which the belt passes.

((8)) (10) "Point of operation" means that point at which cutting shaping, or forming is accomplished upon the stock and shall include such other points as may offer a hazard to the operator in inserting or manipulating the stock in the operation of the machine.

((9)) (11) "Prime movers" include steam, gas, oil, and air engines, motors, steam and hydraulic turbines, and other equipment used as a source of power.

((10)) (12) "Sheaves" mean grooved pulleys and shall be so classified unless used as flywheels.

#### AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-20503 GENERAL REQUIREMENTS. (1) This section covers all types and shapes of power-transmission belts, except the following when operating at two hundred and fifty feet per minute or less:

(a) Flat belts one inch or less in width.

(b) Flat belts two inches or less in width which are free from metal lacings or fasteners.

(c) Round belts one-half inch or less in diameter.

(d) Single strand V-belts, the width of which is thirteen thirty-seconds inch or less.

(2) Vertical and inclined belts (WAC 296-24-20511 (3) and (4)) if not more than two and one-half inches wide and running at a speed of less than one thousand feet per minute, and if free from metal lacings or fastenings may be guarded with a nip-point belt and pulley guard.

(3) For the textile industry, because of the presence of excessive deposits of lint, which constitute a serious fire hazard, the sides and face sections only of nip-point belt and pulley guards are required, provided the guard shall extend at least six inches beyond the rim of the pulley on the in-running and off-running sides of the belt and at least two inches away from the rim and face of the pulley in all other directions.

(4) These standards cover the principal features with which power transmission safeguards shall comply. When there is no possibility of employee contact with power transmission belts during operation, the belts are "guarded by location" and no further guarding is required.

#### AMENDATORY SECTION (Amending Order 74-27, filed 5/7/74)

WAC 296-24-21511 ROLLING RAILROAD CARS. (1) Derail and/or bumper blocks shall be provided on spur railroad tracks where a rolling car could contact other cars being worked, enter a building, work or traffic area. This does not apply to cars being moved by a locomotive, switch engine, donkey engine, or a car puller, but only to cars which are "cut loose." The standard does not apply to "cut loose" cars in railroad yards where trains are made up using gravity feed arrangements.

((1)) (2) A clearly audible warning system shall be employed when cars are being moved by car pullers or locomotives, and when the person responsible for the moving does not have assurance that the area is clear, and it is safe to move the car or cars.

#### AMENDATORY SECTION (Amending Order 84-18, filed 8/21/84)

WAC 296-24-21703 DEFINITIONS. (1) "Barrier" means a fence, wall or other structure or object placed between a single-piece rim wheel and an employee during tire inflation, to contain the rim wheel components in the event of the sudden release of the contained air of the single-piece rim wheel.

(2) "Charts" means the United States Department of Transportation, Labor, Occupational Safety and Health Administration publications entitled "Demounting and Mounting Procedures for Truck/Bus Tires" and "Multi-Piece Rim Matching Chart," the National Highway Traffic Safety Administration (NHTSA) publications entitled "Safety Precautions for Mounting and" "Demounting ((Tube-Type)) and Mounting Procedures for Truck/Bus Tires" and "Multi-Piece Rim ((Wheel)) Matching Chart," or any other publications such as rim manuals containing, at a minimum, poster which contains at least the same instructions, safety precautions and other information contained ((on those)) in the charts that ((are)) is applicable to the types of ((rim)) wheels being serviced.

(3) "Installing a rim wheel" means the transfer and attachment of an assembled rim wheel onto a vehicle axle hub. "Removing" means the opposite of installing.

(4) "Mounting a tire" means the assembly or putting together of the wheel and tire components to form a rim wheel, including inflation. "Demounting" means the opposite of mounting.

(5) "Multi-piece rim wheel" means the assemblage of a multi-piece wheel with the tire tube and other components.

(6) "Multi-piece wheel" means a vehicle wheel consisting of two or more parts, one of which is a side or locking ring designed to hold the tire on the wheel by interlocking components when the tire is inflated.

(7) "Restraining device" means an apparatus such as a cage, rack, assemblage of bars and other components that will constrain all rim wheel components during an explosive separation of a multi-piece rim wheel, or during the sudden release of the contained air of a single-piece rim wheel.

(8) "Rim manual" means a publication containing instructions from the manufacturer or other qualified organization for correct mounting, demounting, maintenance, and safety precautions peculiar to the type of wheel being serviced.

(9) "Rim wheel" means an assemblage of tire, tube and liner (where appropriate), and wheel components.

(10) "Service" or "servicing" means the mounting and demounting of rim wheels, and related activities such as inflating, deflating, installing, removing, and handling.

(11) "Service area" means that part of an employer's premises used for the servicing of rim wheels, or any other place where an employee services rim wheels.

(12) "Single-piece rim wheel" means the assemblage of single-piece rim wheel with the tire and other components.

(13) "Single-piece wheel" means a vehicle wheel consisting of one part, designed to hold the tire on the wheel when the tire is inflated.

(14) "Trajectory" means any potential path or route that a rim wheel component may travel during an explosive separation, or the sudden release of the pressurized air, or an area at which an airblast from a single-piece rim wheel may be released. The trajectory may deviate from paths which are perpendicular to the assembled position of the rim wheel at the time of separation or explosion. (See Appendix A for examples of trajectories.)

(15) "Wheel" means that portion of a rim wheel which provides the method of attachment of the assembly to the axle of a vehicle and also provides the means to contain the inflated portion of the assembly (i.e., the tire and/or tube).

#### AMENDATORY SECTION (Amending Order 88-04, filed 5/11/88)

WAC 296-24-21707 TIRE SERVICING EQUIPMENT. (1) The employer shall furnish a restraining device for inflating tires on multi-piece wheels.

(2) The employer shall provide a restraining device or barrier for inflating tires on single-piece wheels unless the rim wheel will be bolted onto a vehicle during inflation.

(3) Restraining devices and barriers shall comply with the following requirements:

(a) Each restraining device or barrier shall have the capacity to withstand the maximum force that would be transferred to it during a rim wheel separation occurring at one hundred fifty percent of the maximum tire specification pressure for the type of rim wheel being serviced.

(b) Restraining devices and barriers shall be capable of preventing the rim wheel components from being thrown outside or beyond the device or barrier for any rim wheel positioned within or behind the device;

(c) Restraining devices and barriers shall be visually inspected prior to each day's use and after any separation of the rim wheel components or sudden release of contained air. Any restraining device or barrier exhibiting damage such as the following defects shall be immediately removed from service:

- (i) Cracks at welds;
- (ii) Cracked or broken components;
- (iii) Bent or sprung components caused by mishandling, abuse, tire explosion or rim wheel separation;
- (iv) Pitting of components due to corrosion; or
- (v) Other structural damage which would decrease its effectiveness.

(d) Restraining devices or barriers removed from service shall not be returned to service until they are repaired and reinspected. Restraining devices or barriers requiring structural repair such as component replacement or rewelding shall not be returned to service until they are certified by either the manufacturer or a registered professional engineer as meeting the strength requirements of (a) of this subsection.

(4) The employer shall furnish and assure that an air line assembly consisting of the following components be used for inflating tires:

- (a) A clip-on chuck;
- (b) An in-line valve with a pressure gauge or a presettable regulator; and

(c) A sufficient length of hose between the clip-on chuck and the in-line valve (if one is used) to allow the employee to stand outside the trajectory.

(5) Current charts ((f)) or rim manuals((f)) containing instructions for the types of wheels being serviced shall be available in the service area.

(6) The employer shall furnish and assure that only tools recommended in the rim manual for the type of wheel being serviced are used to service rim wheels.

#### AMENDATORY SECTION (Amending Order 84-18, filed 8/21/84)

**WAC 296-24-21713 SAFE OPERATING PROCEDURE—SINGLE-PIECE RIM WHEELS.** The employer shall establish a safe operating procedure for servicing single-piece rim wheels and shall assure that employees are instructed in and follow that procedure. The procedure shall include at least the following elements:

(1) Tires shall be completely deflated by removal of the valve core before demounting.

(2) Mounting and demounting of the tire shall be done only from the narrow ledge side of the wheel. Care shall be taken to avoid damaging the tire beads while mounting tires on wheels. Tires shall be mounted only on compatible wheels of matching bead diameter and width.

(3) Nonflammable rubber lubricant shall be applied to bead and wheel mating surfaces before assembly of the rim wheel, unless the tire or wheel manufacturer recommends against the use of any rubber lubricant.

(4) If a tire changing machine is used, the tire shall be inflated only to the minimum pressure necessary to force the tire bead onto the rim ledge while on the tire changing machine.

(5) If a bead expander is used, it shall be removed before the valve core is installed and as soon as the rim wheel becomes airtight (the tire bead slips onto the bead seat).

(6) Tires may be inflated only when contained within a restraining device, positioned behind a barrier or bolted on the vehicle with the lug nuts fully tightened.

(7) Tires shall not be inflated when any flat, solid surface is in the trajectory and within one foot of the sidewall.

(8) Employees shall stay out of the trajectory when inflating a tire.

(9) Tires shall not be inflated to more than the inflation pressure stamped in the sidewall unless a higher pressure is recommended by the manufacturer.

(10) Tires shall not be inflated above the maximum pressure recommended by the manufacturer to seat the tire bead firmly against the rim flange.

(11) No heat shall be applied to a single-piece wheel.

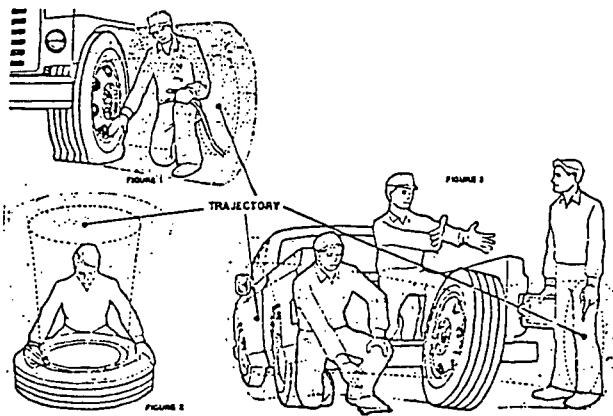
(12) Cracked, broken, bent, or otherwise damaged wheels shall not be reworked, welded, brazed, or otherwise heated.

#### (13) APPENDIX A TRAJECTORY

##### **WARNING**

**STAY OUT OF  
THE TRAJECTORY AS  
INDICATED BY SHADED AREA**

Note: Under some circumstances, the trajectory may deviate from its expected path.



#### (14) Appendix B—Ordering Information for NHTSA charts

((OSHA has reprinted the NHTSA charts as part of a continuing campaign to alert rim wheel serving personnel of the industry accepted procedures for servicing multi-piece rim wheels.)) Appendix B—Ordering Information for the OSHA charts

OSHA has printed two charts entitled "Demounting and Mounting Procedures for Truck/Bus Tires" and "Multi-Piece Rim Matching Chart," as part of a continuing campaign to reduce accidents among employees who service large vehicle rim wheels.

Reprints of the charts are available through the Occupational Safety and Health Administration (OSHA) area offices. The address and telephone number of the nearest OSHA area office can be obtained by looking in the local telephone directory under U.S. Government, U.S. Department of Labor, Occupational Safety and Health Administration. Single copies are available without charge.

Individuals, establishments and other organizations desiring multiple copies of these charts may order them from the Publications Office, U.S. Department of Labor, Room ((N410+)) N3101, Washington, D.C. 20210. Telephone: (202) 523-9667.

#### AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

**WAC 296-24-23529 OPERATORS.** (1) Cranes shall be operated only by regular crane operators, authorized substitutes who have had adequate experience and training under the supervision of a competent operator, or by crane repairmen or inspectors.

(2) No person should be permitted to operate a crane who cannot speak and read the English language, or who is under eighteen years of age.

(3) No person shall be permitted to operate a crane whose hearing or eye-sight is impaired, or who may be suffering from heart disease or similar ailments. The following physical qualifications shall be minimum requirements for overhead and gantry crane operators and trainees:

(a) They shall have vision of at least 20/30 in one eye, and 20/50 in the other, with or without corrective lenses.

(b) They shall be able to distinguish colors, regardless of position of colors, if color differential is required for operation.

(c) Their hearing, with or without hearing aid, must be adequate for a specific operation.

(d) They shall have sufficient strength, endurance, agility, coordination, and speed of reaction to meet the demands of equipment operation.

(e) They shall have normal depth perception, field of vision, reaction time, manual dexterity, coordination and no tendencies to dizziness or similar undesirable characteristics.

(f) Evidence of physical defects, or emotional instability which could render the operator or trainee a hazard to their self or others, or could

interfere with their safe performance may be sufficient cause for disqualification. In such cases, specialized clinical or medical judgments or tests shall be required (which include annual medical certification for recovered heart attack patients).

(g) Evidence that an operator or trainee is subject to seizures or loss of physical control shall be sufficient reason for disqualification. Specialized medical tests shall be required to substantiate these conditions.

(4) Persons who have recovered from a heart attack shall be exempted from the provisions of subsection (3) of this section, as it pertains to their heart condition, provided:

(a) A medical release is obtained from their attending medical doctor.

(b) The release shall state that the operation of a crane will not present a hazard to their self or others.

(c) An examination by a medical doctor, and renewal of the work release certification is required annually.

(5) The operator shall familiarize himself fully with all crane rules and with the crane mechanism and its proper care. If adjustments or repairs are necessary, he shall report the same at once to the proper authority.

((57)) (6) The operator shall not eat, smoke or read while actually engaged in the operation of the crane, or operate the crane when he is physically unfit.

((67)) (7) The operator or someone especially designated shall properly lubricate all working parts of the crane.

((77)) (8) Cranes shall be kept clean.

((87)) (9) Whenever the operator finds the main or emergency switch open, he shall not close it, even when starting on regular duty, until he has made sure that no one is on or about the crane. He shall not oil or repair the crane unless the main switch is open.

((97)) (10) If the power goes off, the operator shall immediately throw all controllers to "off" position until the power is again available.

((107)) (11) Before closing the main switch the operator shall make sure that all controllers are in "off" position until the power is again available.

((117)) (12) The operator shall recognize signals only from the man who is supervising the lift. Operating signals shall follow an established standard. Whistle signals may be used where one crane only is in operation.

((127)) (13) Bumping into runway stops or other cranes shall be avoided. When the operator is ordered to engage with or push other cranes, he shall do so with special care for the safety of persons on or below cranes.

((137)) (14) When lowering a load, the operator shall proceed carefully and make sure that he has the load under safe control.

((147)) (15) When leaving the cage the operator shall throw all controllers to "off" position and open the main switch.

((157)) (16) If the crane is located out-of-doors the operator shall lock the crane in a secure position to prevent it from being blown along or off the track by a severe wind.

((167)) (17) Operators shall not permit anyone to ride on the load or hooks, unless using a lifeline or safety device approved by the department.

#### AMENDATORY SECTION (Amending Order 76-28, filed 9/28/76)

WAC 296-24-260 HELICOPTERS. (1) Helicopter regulations. Helicopter cranes shall be expected to comply with any applicable regulations of the Federal Aviation Administration.

(2) Briefing. Prior to each day's operation, a briefing shall be conducted. This briefing shall set forth the plan of operation for the pilot and ground personnel.

(3) Slings and tag lines. Load shall be properly slung. Tag lines shall be of a length that will not permit their being drawn up into rotors. Pressed sleeve, swaged eyes, or equivalent means shall be used for all freely suspended loads to prevent hand splices from spinning open or cable clamps from loosening.

(4) Cargo hooks. All electrically operated cargo hooks shall have the electrical activating device so designed and installed as to prevent inadvertent operation. In addition, these cargo hooks shall be equipped with an emergency mechanical control for releasing the load. The hooks shall be tested prior to each day's operation to determine that the release functions properly, both electrically and mechanically.

(5) Personal protective equipment.

(a) Personal protective equipment for employees receiving the load shall consist of complete eye protection and hard hats secured by chin straps.

(b) Loose-fitting clothing likely to flap in the downwash and thus be snagged on hoist line shall not be worn.

(6) Loose gear and objects. Every practical precaution shall be taken to provide for the protection of the employees from flying objects in the rotor downwash. All loose gear within ((100)) one hundred feet of the place of lifting the load, depositing the load, and all other areas susceptible to rotor downwash shall be secured or removed.

(7) Housekeeping. Good housekeeping shall be maintained in all helicopter loading and unloading areas.

(8) Operator responsibility. The helicopter operator shall be responsible for size, weight, and manner in which loads are connected to the helicopter. If, for any reason, the helicopter operator believes the lift cannot be made safely, the lift shall not be made.

(9) Hooking and unhooking loads. Employees shall not perform work under hovering craft except for that limited period of time necessary to guide, secure and unhook loads, or to hook loads. Regardless of whether the hooking or unhooking of a load takes place on the ground or a flat roof, or other location in an elevated work position in structural members, a safe means of access and egress, to include an unprogrammed emergency escape route or routes, shall be provided for the employees who are hooking or unhooking loads.

(10) Static charge. Static charge on the suspended load shall be dissipated with a grounding device before ground personnel touch the suspended load, or protective rubber gloves shall be worn by all ground personnel touching the suspended load.

(11) Weight limitation. The weight of an external load shall not exceed the manufacturer's rating.

(12) Ground lines. Hoist wires or other gear, except for pulling lines or conductors that are allowed to "pay out" from a container or roll off a reel, shall not be attached to any fixed ground structure, or allowed to foul on any fixed structure.

(13) Visibility. When visibility is reduced by dust or other conditions, ground personnel shall exercise special caution to keep clear of main and stabilizing rotors. Precautions shall also be taken by the employer to eliminate as far as practical reduced visibility.

(14) Signal systems. Signal systems between aircrew and ground personnel shall be understood and checked in advance of hoisting the load. This applies to either radio or hand signal systems. Handsignals shall be as shown in Figure L-1.

(15) Approach distance. No unauthorized person shall be allowed to approach within ((50)) fifty feet of the helicopter when the rotor blades are turning.

(16) Approaching helicopter. Whenever approaching or leaving a helicopter with blades rotating, all employees shall remain in full view of the pilot and keep in a crouched position. Employees shall avoid the area from the cockpit or cabin rearward unless authorized by the helicopter operator to work there.

(17) Personnel. Sufficient ground personnel shall be provided when required for safe helicopter loading and unloading operations.

(18) Communications. There shall be constant reliable communication between the pilot, and a designated employee of the ground crew who acts as a signalman during the period of loading and unloading. This signalman shall be distinctly recognizable from other ground personnel.

(19) Fires. Open fires shall not be permitted in an area that could result in such fires being spread by the rotor downwash.

(20) Under no circumstances shall the refueling of any type helicopter with either aviation gasoline or Jet B (Turbine) type fuel be permitted while the engines are running.

(21) Helicopters using Jet A (Turbine-Kerosene) type fuel may be refueled with engines running provided the following criteria is met:

(a) No unauthorized persons shall be allowed within fifty feet of the refueling operation or fueling equipment.

(b) A minimum of one thirty-pound fire extinguisher, or a combination of same, good for class A, B and C fires, shall be provided within one hundred feet on the upwind side of the refueling operation.

(c) All fueling personnel shall be thoroughly trained in the refueling operation and in the use of the available fire extinguishing equipment they may be expected to utilize.

(d) There shall be no smoking, open flames, exposed flame heaters, flare pots, or open flame lights within fifty feet of the refueling area or fueling equipment. All entrances to the refueling area shall be posted with "NO SMOKING" signs.

(e) Due to the numerous causes of static electricity, it shall be considered present at all times. Prior to starting refueling operations, the fueling equipment and the helicopter shall be grounded and the fueling

nozzle shall be electrically bonded to the helicopter. The use of conductive hose shall not be accepted to accomplish this bonding. All grounding and bonding connections shall be electrically and mechanically firm, to clean unpainted metal parts.

(f) To control spills, fuel shall be pumped either by hand or power. Pouring or gravity flow shall not be permitted. Self-closing nozzles or deadman controls shall be used and shall not be blocked open. Nozzles shall not be dragged along the ground.

(g) In case of a spill, the fueling operation shall be immediately stopped until such time as the person-in-charge determines that it is safe to resume the refueling operation.

(h) When ambient temperatures have been in the one hundred degrees Fahrenheit range for an extended period of time, all refueling of helicopters with the engines running shall be suspended until such time as conditions become suitable to resume refueling with the engines running.

(22) Helicopters with their engines stopped being refueled with aviation gasoline or Jet B (Turbine) type fuel, shall also comply with subsection (21)(a) through (g) of this section.

#### AMENDATORY SECTION (Amending Order 85-09, filed 4/19/85)

##### WAC 296-24-33011 INDUSTRIAL PLANTS. (1) Scope.

(a) Application. This paragraph shall apply to those industrial plants where:

(i) The use of flammable or combustible liquids is incidental to the principal business, or

(ii) Where flammable or combustible liquids are handled or used only in unit physical operations such as mixing, drying, evaporating, filtering, distillation, and similar operations which do not involve chemical reaction. This section shall not apply to chemical plants, refineries or distilleries.

(b) Exceptions. Where portions of such plants involve chemical reactions such as oxidation, reduction, halogenation, hydrogenation, alkylation, polymerization, and other chemical processes, those portions of the plant shall be in accordance with WAC 296-24-33017.

##### (2) Incidental storage or use of flammable and combustible liquids.

(a) Application. This shall be applicable to those portions of an industrial plant where the use and handling of flammable or combustible liquids is only incidental to the principal business, such as automobile assembly, construction of electronic equipment, furniture manufacturing, or other similar activities.

(b) Containers. Flammable or combustible liquids shall be stored in tanks or closed containers.

(i) Except as provided in ((2))(b)(ii) and (iii) of this ((section)) subsection all storage shall comply with WAC 296-24-33009 (3) or (4).

(A) When the only operation involved is the storage of flammables in containers or tanks that are closed and remain closed throughout the storage, WAC 296-24-33009(5) and tables H-14 and H-15 will apply.

(B) When the procedure involved is mixing, transferring, or other exposure of liquids to vaporization through operational procedures in which containers or tanks do not remain closed in the storage area, WAC 296-24-33009(4) and table H-13 shall be used to determine permissible quantities.

(ii) The quantity of liquid that may be located outside of an inside storage room or storage cabinet in a building or in any one fire area of a building shall not exceed:

(A) ((25)) Twenty-five gallons of Class IA liquids in containers.

(B) ((120)) One hundred twenty gallons of Class IB, IC, II, or III liquids in containers.

(C) ((660)) Six hundred sixty gallons of Class IB, IC, II, or III liquids in a single portable tank.

(iii) Where large quantities of flammable or combustible liquids are necessary, storage may be in tanks which shall comply with the applicable requirements of WAC 296-24-33005.

(c) Separation and protection. Areas in which flammable or combustible liquids are transferred from one tank or container to another container shall be separated from other operations in the building by adequate distance or by construction having adequate fire resistance. Drainage or other means shall be provided to control spills. Adequate natural or mechanical ventilation shall be provided.

(d) Handling liquids at point of final use.

(i) Flammable liquids shall be kept in covered containers when not actually in use.

(ii) Where flammable or combustible liquids are used or handled, except in closed containers, means shall be provided to dispose promptly and safely of leakage or spills.

(iii) Class I liquids may be used only where there are no open flames or other sources of ignition within the possible path of vapor travel.

(iv) Flammable or combustible liquids shall be drawn from or transferred into vessels, containers, or portable tanks within a building only through a closed piping system, from safety cans, by means of a device drawing through the top, or from a container or portable tanks by gravity through an approved self-closing valve. Transferring by means of air pressure on the container or portable tanks shall be prohibited.

##### (3) Unit physical operations.

(a) Application. This ((subdivision)) subsection (3) shall be applicable in those portions of industrial plants where flammable or combustible liquids are handled or used in unit physical operations such as mixing, drying, evaporating, filtering, distillation, and similar operations which do not involve chemical change. Examples are plants compounding cosmetics, pharmaceuticals, solvents, cleaning fluids, insecticides, and similar types of activities.

(b) Location. Industrial plants shall be located so that each building or unit of equipment is accessible from at least one side for firefighting and fire control purposes. Buildings shall be located with respect to lines of adjoining property which may be built upon as set forth in WAC 296-24-33017 (2)(a) and (b) except that the blank wall referred to in WAC 296-24-33017 (2)(b) shall have a fire resistance rating of at least ((2)) two hours.

(c) Chemical processes. Areas where unstable liquids are handled or small scale unit chemical processes are carried on shall be separated from the remainder of the plant by a fire wall of ((2-hour)) two-hour minimum fire resistance rating.

##### (d) Drainage.

(i) Emergency drainage systems shall be provided to direct flammable or combustible liquid leakage and fire protection water to a safe location. This may require curbs, scuppers, or special drainage systems to control the spread of fire; see WAC 296-24-33005 (2)(g)(ii).

(ii) Emergency drainage systems, if connected to public sewers or discharged into public waterways, shall be equipped with traps or separators.

(iii) The industrial plant shall be designed and operated to prevent the normal discharge of flammable or combustible liquids into public waterways, public sewers, or adjoining property.

##### (e) Ventilation.

(i) Areas as defined in subsection (1)(a) of this section using Class I liquids shall be ventilated at a rate of not less than ((1)) one cubic foot per minute per square foot of solid floor area. This shall be accomplished by natural or mechanical ventilation with discharge or exhaust to a safe location outside of the building. Provision shall be made for introduction of makeup air in such a manner as not to short circuit the ventilation. Ventilation shall be arranged to include all floor areas or pits where flammable vapors may collect.

(ii) Equipment used in a building and the ventilation of the building shall be designed so as to limit flammable vapor-air mixtures under normal operating conditions to the interior of equipment, and to not more than ((5)) five feet from equipment which exposes Class I liquids to the air. Examples of such equipment are dispensing stations, open centrifuges, plate and frame filters, open vacuum filters, and surfaces of open equipment.

(f) Storage and handling. The storage, transfer, and handling of liquid shall comply with WAC 296-24-33017(4) of this section.

##### (4) Tank vehicle and tank car loading and unloading.

((a)) Tank vehicle and tank car loading or unloading facilities shall be separated from aboveground tanks, warehouses, other plant buildings or nearest line of adjoining property which may be built upon by a distance of ((25)) twenty-five feet for Class I liquids and ((15)) fifteen feet for Class II and Class III liquids measured from the nearest position of any fill stem. Buildings for pumps or shelters for personnel may be a part of the facility. Operations of the facility shall comply with the appropriate portions of WAC 296-24-33013(3).

##### (5) Fire control.

(a) Portable and special equipment. Portable fire extinguishment and control equipment shall be provided in such quantities and types as are needed for the special hazards of operation and storage.

(b) Water supply. Water shall be available in volume and at adequate pressure to supply water hose streams, foam-producing equipment, automatic sprinklers, or water spray systems as the need is indicated by the special hazards of operation, dispensing and storage.

(c) Special extinguishers. Special extinguishing equipment such as that utilizing foam, inert gas, or dry chemical shall be provided as the need is indicated by the special hazards of operation dispensing and storage.

(d) Special hazards. Where the need is indicated by special hazards of operation, flammable or combustible liquid processing equipment, major piping, and supporting steel shall be protected by approved water spray systems, deluge systems, approved fire-resistant coatings, insulation, or any combination of these.

(e) Maintenance. All plant fire protection facilities shall be adequately maintained and periodically inspected and tested to make sure they are always in satisfactory operating condition, and they will serve their purpose in time of emergency.

(6) Sources of ignition.

(a) General. Adequate precautions shall be taken to prevent the ignition of flammable vapors. Sources of ignition include but are not limited to open flames; lightning; smoking; cutting and welding; hot surfaces; frictional heat; static, electrical and mechanical sparks; spontaneous ignition, including heat-producing chemical reactions; and radiant heat.

(b) Grounding. Class I liquids shall not be dispensed into containers unless the nozzle and container are electrically interconnected. Where the metallic floorplate on which the container stands while filling is electrically connected to the fill stem or where the fill stem is bonded to the container during filling operations by means of a bond wire, the provisions of these standards shall be deemed to have been complied with.

(7) Electrical.

((a)) Equipment:

((i))) (a) All electrical wiring and equipment shall be installed according to the requirements of WAC 296-24-956 through 296-24-960.

((ii))) (b) Locations where flammable vapor-air mixtures may exist under normal operations shall be classified Class I, Division 1 according to the requirements of WAC 296-24-956 through 296-24-960. For those pieces of equipment installed in accordance with the requirements of subsection (3)(e)(ii) of this section, the Division 1 area shall extend ((5)) five feet in all directions from all points of vapor liberation. All areas within pits shall be classified Division 1 if any part of the pit is within a Division 1 or 2 classified area, unless the pit is provided with mechanical ventilation.

((iii))) (c) Locations where flammable vapor-air mixtures may exist under abnormal conditions and for a distance beyond Division 1 locations shall be classified Division 2 according to the requirements of WAC 296-24-956 through 296-24-960. These locations include an area within ((20)) twenty feet horizontally, ((3)) three feet vertically beyond a Division 1 area, and up to ((3)) three feet above floor or grade level within ((25)) twenty-five feet, if indoors, or ((10)) ten feet if outdoors, from any pump, bleeder, withdrawal fitting, meter, or similar device handling Class I liquids. Pits provided with adequate mechanical ventilation within a Division 1 or 2 area shall be classified Division 2. If Class II or Class III liquids only are handled, then ordinary electrical equipment is satisfactory though care shall be used in locating electrical apparatus to prevent hot metal from falling into open equipment.

((iv))) (d) Where the provisions of ((i), (ii) and (iii) of this section) (a), (b), and (c) of this subsection require the installation of electrical equipment suitable for Class I, Division 1 or Division 2 locations, ordinary electrical equipment including switchgear may be used if installed in a room or enclosure which is maintained under positive pressure with respect to the hazardous area. Ventilation makeup air shall be uncontaminated by flammable vapors.

(8) Repairs to equipment. Hot work, such as welding or cutting operations, use of spark-producing power tools, and chipping operations shall be permitted only under supervision of an individual in responsible charge. The individual in responsible charge shall make an inspection of the area to be sure that it is safe for the work to be done and that safe procedures will be followed for the work specified.

(9) Housekeeping.

(a) General. Maintenance and operating practices shall be in accordance with established procedures which will tend to control leakage and prevent the accidental escape of flammable or combustible liquids. Spills shall be cleaned up promptly.

(b) Access. Adequate aisles shall be maintained for unobstructed movement of personnel and so that fire protection equipment can be brought to bear on any part of flammable or combustible liquid storage, use, or any unit physical operation.

(c) Waste and residue. Combustible waste material and residues in a building or unit operating area shall be kept to a minimum, stored in covered metal receptacles and disposed of daily.

(d) Clear zone. Ground area around buildings and unit operating areas shall be kept free of weeds, trash, or other unnecessary combustible materials.

AMENDATORY SECTION (Amending Order 76-6, filed 3/1/76)

WAC 296-24-37003 SPRAY BOOTHS. (1) Construction. Spray booths shall be substantially constructed of steel, securely and rigidly supported, or of concrete or masonry except that aluminum or other substantial noncombustible material may be used for intermittent or low volume spraying. Spray booths shall be designed to sweep air currents toward the exhaust outlet.

(2) Interiors. The interior surfaces of spray booths shall be smooth and continuous without edges and otherwise designed to prevent pocketing of residues and facilitate cleaning and washing without injury.

(3) Floors. The floor surface of a spray booth and operator's working area, if combustible, shall be covered with noncombustible material of such character as to facilitate the safe cleaning and removal of residues.

(4) Distribution or baffle plates. Distribution or baffle plates, if installed to promote an even flow of air through the booth or cause the deposit of overspray before it enters the exhaust duct, shall be of noncombustible material and readily removable or accessible on both sides for cleaning. Such plates shall not be located in exhaust ducts.

(5) Dry type overspray collectors—(Exhaust air filters). In conventional dry type spray booths, overspray dry filters or filter rolls, if installed, shall conform to the following:

(a) The spraying operations except electrostatic spraying operations shall be so designed, installed and maintained that the average air velocity over the open face of the booth (or booth cross section during spraying operations) shall be not less than 100 linear feet per minute. Electrostatic spraying operations may be conducted with an air velocity over the open face of the booth of not less than 60 linear feet per minute, or more, depending on the volume of the finishing material being applied and its flammability and explosion characteristics. Visible gauges or audible alarm or pressure activated devices shall be installed to indicate or insure that the required air velocity is maintained. Dry spray booths equipped with a filter roll which is automatically advanced when the air velocity is reduced to that specified in this section should be arranged to cause shutdown of spraying operations if the filter roll fails to advance automatically. Maintenance procedures should be established to assure replacing filter pads before excessive restriction to airflow occurs. Filter pads should be inspected after each period of use and clogged filter pads discarded and replaced. Filter rolls shall be inspected to insure proper replacement of filter media.

(b) All discarded filter pads and filter rolls shall be immediately removed to a safe, well-detached location or placed in a water-filled metal container and disposed of at the close of the day's operation unless maintained completely in water.

(c) The location of filters in a spray booth shall be so as to not reduce the effective booth enclosure of the articles being sprayed.

(d) Space within the spray booth on the downstream and upstream sides of filters shall be protected with an approved automatic sprinkler(s) system meeting one of the following requirements:

(i) An automatic sprinkler system as defined in WAC 296-24-607;

or

(ii) A fixed dry chemical extinguishing system as defined in WAC 296-24-622; or

(iii) A fixed carbon dioxide gaseous agent system as defined in WAC 296-24-623.

(e) Filters or filter rolls shall not be used when applying a spray material known to be highly susceptible to spontaneous heating and ignition.

(f) Clean filters or filter rolls shall be noncombustible or of a type having a combustibility not in excess of Class 2 filters as listed by Underwriters' Laboratories, Inc. Filters and filter rolls shall not be alternately used for different types of coating materials, where the combination of materials may be conducive to spontaneous ignition. See also WAC 296-24-37013(6).

(6) Frontal area. Each spray booth having a frontal area larger than 9 square feet shall have a metal deflector or curtain not less than 2 1/2 inches deep installed at the upper outer edge of the booth over the opening.

(7) Conveyors. Where conveyors are arranged to carry work into or out of spray booths, the openings therefor shall be as small as practical.

(8) Separation of operations. Each spray booth shall be separated from other operations by not less than 3 feet, or by a greater distance, or by such partition or wall as to reduce the danger from juxtaposition of hazardous operations. See also WAC 296-24-37005(1).

(9) Cleaning. Spray booths shall be so installed that all portions are readily accessible for cleaning. A clear space of not less than 3 feet on all sides shall be kept free from storage or combustible construction.

(10) Illumination. When spraying areas are illuminated through glass panels or other transparent materials, only fixed lighting units shall be used as a source of illumination. Panels shall effectively isolate the spraying area from the area in which the lighting unit is located, and shall be of a noncombustible material of such a nature or so protected that breakage will be unlikely. Panels shall be so arranged that normal accumulations of residue on the exposed surface of the panel will not be raised to a dangerous temperature by radiation or conduction from the source of illumination.

#### AMENDATORY SECTION (Amending Order 81-32, filed 12/24/81)

#### WAC 296-24-567 EMPLOYEE EMERGENCY PLANS AND FIRE PREVENTION PLANS. (1) Emergency action plan.

(a) Scope and application. This subdivision applies to all emergency action plans required by a particular WISHA standard. The emergency action plan shall be in writing ((~~except as provided in the last sentence of (1)(c)(iii) of this section~~)), and shall cover those designated actions employers and employees must take to ensure employee safety from fire and other emergencies.

(b) Elements. The following elements, at a minimum, shall be included in the plan:

(i) Emergency escape procedures and emergency escape route assignments;

(ii) Procedures to be followed by employees who remain to operate critical plant operations before they evacuate;

(iii) Procedures to account for all employees after emergency evacuation has been completed;

(iv) Rescue and medical duties for those employees who are to perform them;

(v) The preferred means of reporting fires and other emergencies; and

(vi) Names or regular job titles of persons or departments who can be contacted for further information or explanation of duties under the plan.

(c) Alarm systems.

(i) The employer shall establish an employee alarm system which complies with WAC 296-24-631.

(ii) If the employee alarm system is used for alerting fire brigade members, or for other purposes, a distinctive signal for each purpose shall be used.

(d) Evacuation. The employer shall establish in the emergency action plan the types of evacuation to be used in emergency circumstances.

(e) Training.

(i) Before implementing the emergency action plan, the employer shall designate and train a sufficient number of persons to assist in the safe and orderly emergency evacuation of employees.

(ii) The employer shall review the plan with each employee covered by the plan at the following times:

(A) Initially when the plan is developed;

(B) Whenever the employee's responsibilities or designated actions under the plan change; and

(C) Whenever the plan is changed.

(iii) The employer shall review with each employee upon initial assignment those parts of the plan which the employee must know to protect the employee in the event of an emergency. The written plan shall be kept at the workplace and made available for employee review. ((~~For those employers with ten or fewer employees the plan may be communicated orally to employees and the employer need not maintain a written plan.~~))

(2) Fire prevention plan.

(a) Scope and application. This subsection applies to all fire prevention plans required by a particular WISHA standard. The fire prevention plan shall be in writing ((~~except as provided in the last sentence of (2)(d)(ii) of this section~~)).

(b) Elements. The following elements, at a minimum, shall be included in the fire prevention plan:

(i) A list of the major workplace fire hazards and their proper handling and storage procedures, potential ignition sources (such as welding, smoking and others) and their control procedures, and the type of fire protection equipment or systems which can control a fire involving them;

(ii) Names or regular job titles of those personnel responsible for maintenance of equipment and systems installed to prevent or control ignitions or fires; and

(iii) Names or regular job titles of those personnel responsible for control of fuel source hazards.

(c) Housekeeping. The employer shall control accumulations of flammable and combustible waste materials and residues so that they do not contribute to a fire emergency. The housekeeping procedures shall be included in the written fire prevention plan.

(d) Training.

(i) The employer shall apprise employees of the fire hazards of the materials and processes to which they are exposed.

(ii) The employer shall review with each employee upon initial assignment those parts of the fire prevention plan which the employee must know to protect the employee in the event of an emergency. The written plan shall be kept in the workplace and made available for employee review. ((~~For those employers with ten or few employees, the plan may be communicated orally to employees and the employer need not maintain a written plan.~~))

(e) Maintenance. The employer shall regularly and properly maintain, according to established procedures, equipment and systems installed on heat producing equipment to prevent accidental ignition of combustible materials. The maintenance procedures shall be included in the written fire prevention plan.

#### AMENDATORY SECTION (Amending Order 79-9, filed 7/31/79)

#### WAC 296-24-66313 OPERATION. (1) Only tools meeting the requirements of this standard shall be used.

(2) Only qualified operators shall operate tools.

(3) The lowest velocity class of tool that will properly set the fastener shall be used.

(4) Tools shall be operated in strict accordance with the manufacturer's instructions.

(5) Eye or face protection, or both, shall be worn by operators, assistants, and adjacent personnel when tool is in use. Hearing protection shall be used when making fastenings in confined areas.

(6) Each day, prior to use, the operator shall inspect the tool to determine that it is in proper working condition in accordance with the testing methods recommended by the manufacturer of the tool.

(7) Any tool found not to be in proper working condition shall be immediately removed from service and tagged "DEFECTIVE"; it shall not be used until it has been properly repaired in accordance with the manufacturer's instructions.

(8) The proper shield, fixture, adapter, or accessory, suited for the application, as recommended and supplied by the manufacturer, shall be used.

(9) Only those types of fasteners and power loads recommended by the tool manufacturer shall be used.

(10) Before fastening into any questionable material, the operator shall determine its suitability by using a fastener as a center punch. If the fastener point does not easily penetrate, is not blunted, and does not fracture the material, initial test fastenings shall then be made in accordance with the tool manufacturer's recommendations. (See WAC 296-24-66315(3).)

(11) No tool shall be loaded unless it is being prepared for immediate use. If the work is interrupted after loading, the tool shall be unloaded at once.

(12) Powder actuated magazine or clip-fed tools are not considered loaded unless a power load is actually in the ram (firing chamber), even though the magazine or clip is inserted in the tool. If work is interrupted, the firing chamber shall be cleared and the magazine or clip removed.

(13) Tools shall not be loaded until just prior to the intended firing time. Neither loaded nor empty tools are to be pointed at any person; hands shall be kept clear of the open barrel end.

((~~(14)~~)) (14) The tool shall always be held perpendicular to the work surface when fastening into any material, except for specific applications recommended by the tool manufacturer.

((~~(15)~~)) (15) In the event of a misfire, the operator shall hold the tool firmly against the work surface for a period of thirty seconds and

then follow the explicit instructions set forth in the manufacturer's instructions.

((15)) (16) Power loads of different power levels and types shall be kept in separate compartments or containers.

((16)) (17) A sign, at least 20 x 25 cm (8 x 10 in), using boldface type no less than 2.5 cm (1 in) in height, shall be posted in plain sight on all construction projects where tools are used. The sign shall bear wording similar to the following: "POWDER ACTUATED TOOL IN USE."

#### AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-68201 GENERAL REQUIREMENTS. (1) Flammable mixture. Mixtures of fuel gases and air or oxygen may be explosive and shall be guarded against. No device or attachment facilitating or permitting mixtures of air or oxygen with flammable gases prior to consumption, except at the burner or in a standard torch, shall be allowed unless approved for the purpose.

(2) Maximum pressure. Under no condition shall acetylene be generated, piped (except in approved cylinder manifolds) or utilized at a pressure in excess of 15 p.s.i. gage pressure or 30 p.s.i. absolute pressure. (The 30 p.s.i. absolute pressure limit is intended to prevent unsafe use of acetylene in pressurized chambers such as caissons, underground excavations or tunnel construction.) This requirement does not apply to storage of acetylene dissolved in a suitable solvent in cylinders manufactured and maintained according to U.S. Department of Transportation requirements, or to acetylene for chemical use. The use of liquid acetylene shall be prohibited.

(3) Apparatus. Only approved apparatus such as torches, regulators or pressure-reducing valves, acetylene generators, and manifolds shall be used. Use of replacement tips will not nullify the "approved apparatus" status of a torch, if such replacement tips are made to the same specifications as the original tip of the torch at the time of approval by the nationally recognized testing laboratory, or if the use of such tips in conjunction with convertor/adaptors results in the same specifications as the original tip at the time of approval by the nationally recognized testing laboratory.

(4) Personnel. Workmen in charge of the oxygen or fuel-gas supply equipment, including generators, and oxygen or fuel-gas distribution piping systems shall be instructed and judged competent by their employers for this important work before being left in charge. Rules and instructions covering the operation and maintenance of oxygen or fuel-gas supply equipment including generators, and oxygen or fuel-gas distribution piping systems shall be readily available.

#### AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-73505 AISLES AND PASSAGEWAYS. (1) Where mechanical handling equipment is used, sufficient safe clearances shall be allowed for aisles, at loading docks, through doorways and wherever turns or passage must be made. Aisles and passageways shall be kept clear and in good repairs, with no obstruction across or in aisles that could create a hazard.

(2) Permanent aisles and passageways shall be appropriately marked. "Appropriate" does not limit the marking to printed lines on the floor only. Other appropriate methods may be marked pillars, powder stripping, flags, traffic cones, or barrels, provided they are maintained in good repair and the recognition of such markings are included in the training programs for vehicle operators and employees.

(3) All trestles in connection with industrial plants on which cars run, which are also used as walkways for workmen, shall be equipped with a walkway on the outer edge, so located as to give safe minimum clearance of three feet to cars. Such walkways shall be equipped with standard rails. Where a trestle crosses a driveway or passageway the trestle over such points shall be solidly boarded over.

#### AMENDATORY SECTION (Amending Order 79-9, filed 7/31/79)

WAC 296-24-75011 RAILING, TOEBOARDS, AND COVER SPECIFICATIONS. (1) A standard railing shall consist of top rail, intermediate rail, and posts, and shall have a vertical height of from ((36 to 42)) thirty-six to forty-two inches nominal from upper surface of top rail to floor, platform, runway, or ramp level. The top rail shall be smooth-surfaced throughout the length of the railing. The intermediate rail shall be approximately halfway between the top rail and the floor, platform, runway, or ramp. The ends of the rails shall not overhang the terminal posts except where such overhang does not constitute a projection hazard.

(2) A stair railing shall be of construction similar to a standard railing but the vertical height shall be not more than ((34)) thirty-four inches nor less than ((30)) thirty inches from upper surface of top rail to surface of tread in line with face of riser at forward edge of tread.

(3) Minimum requirements for standard railings under various types of construction are specified in this subsection. Dimensions specified are based on the U.S. Department of Agriculture Wood Handbook, No. 72, 1955 (No. 1 [S4S] Southern Yellow Pine [Modulus of Rupture 7,400 p.s.i.]) for wood; ANSI G 41.5-1970, American National Standard Specifications for Structural Steel, for structural steel; and ANSI B 125.1-1970, American National Standard Specifications for Welded and Seamless Steel Pipe, for pipe.

(a) For wood railings, the posts shall be of at least ((2)) two-inch by ((4)) four-inch nominal stock spaced not to exceed ((6)) six feet; the top and intermediate rails shall be of at least ((2)) two-inch by ((4)) four-inch nominal stock. If top rail is made of two right-angle pieces of ((1)) one-inch by ((4)) four-inch stock, posts may be spaced on ((8)) eight-foot centers, with ((2)) two-inch by ((4)) four-inch intermediate rail.

(b) For pipe railings, posts and top and intermediate railings shall be at least ((1 1/2)) one and one-half inches nominal diameter (outside diameter) with posts spaced not more than ((8)) eight feet on centers.

(c) For structural steel railings, posts and top and intermediate rails shall be of ((2)) two-inch by ((2)) two-inch by ((3/8)) three-eighths-inch angles or other metal shapes of equivalent bending strength with posts spaced not more than ((8)) eight feet on centers.

(d) The anchoring of posts and framing of members for railings of all types shall be of such construction that the completed structure shall be capable of withstanding a load of at least ((200)) two hundred pounds applied in any direction at any point on the top rail.

(e) Other types, sizes, and arrangements of railing construction are acceptable provided they meet the following conditions:

(i) A smooth-surfaced top rail at a height above floor, platform, runway, or ramp level of from ((36 to 42)) thirty-six to forty-two inches nominal;

(ii) A strength to withstand at least the minimum requirement of ((200)) two hundred pounds top rail pressure;

(iii) Protection between top rail and floor, platform, runway, ramp, or stair treads, equivalent at least to that afforded by a standard intermediate rail;

(iv) Elimination of overhang of rail ends unless such overhang does not constitute a hazard; such as, baluster railings, scrollwork railings, paneled railings.

(4) A standard toeboard shall be a minimum of ((4)) four inches nominal in vertical height from its top edge to the level of the floor, platform, runway, or ramp. It shall be securely fastened in place and with not more than ((1/4)) one-quarter-inch clearance above floor level. It may be made of any substantial material either solid or with openings not over ((1)) one inch in greatest dimension.

Where material is piled to such height that a standard toeboard does not provide protection, paneling from floor to intermediate rail, or to top rail shall be provided.

(5) A handrail shall consist of a lengthwise member mounted directly on a wall or partition by means of brackets attached to the lower side of the handrail so as to offer no obstruction to a smooth surface along the top and both sides of the handrail. The handrail shall be of rounded or other section that will furnish an adequate handhold for anyone grasping it to avoid falling. The ends of the handrail should be turned in to the supporting wall or otherwise arranged so as not to constitute a projection hazard.

(a) The height of handrails shall be not more than ((34)) thirty-four inches nor less than ((30)) thirty inches from upper surface of handrail to surface of tread in line with face of riser or to surface of ramp.

(b) The size of handrails shall be: When of hardwood, at least ((2)) two inches in diameter; when of metal pipe, at least ((1 1/2)) one and one-half inches in diameter. The length of brackets shall be such as will give a clearance between handrail and wall or any projection thereon of at least ((1 1/2)) one and one-half inches. The spacing of brackets shall not exceed ((8)) eight feet.

(c) The mounting of handrails shall be such that the completed structure is capable of withstanding a load of at least ((200)) two hundred pounds applied in any direction at any point on the rail.

(6) All handrails and railings shall be provided with a clearance of not less than ((1 1/2)) one and one-half inches between the handrail or railing and any other object.

(7) Floor opening covers may be of any material that meets the following strength requirements:

(a) Trench or conduit covers and their supports, when located in plant roadways, shall be designed to carry a truck rear-axle load of at least ((20,000)) twenty thousand pounds.

(b) Manhole covers and their supports, when located in plant roadways, shall comply with local standard highway requirements if any; otherwise, they shall be designed to carry a truck rear-axle of at least ((20,000)) twenty thousand pounds.

(c) The construction of floor opening covers may be of any material that meets the strength requirements. Covers projecting not more than ((+)) one inch above the floor level may be used providing all edges are chamfered to an angle with the horizontal of not over ((30)) thirty degrees. All hinges, handles, bolts, or other parts shall set flush with the floor or cover surface.

(8) Skylight screens shall be of such construction and mounting that they are capable of withstanding a load of at least ((200)) two hundred pounds applied perpendicularly at any one area on the screen. They shall also be of such construction and mounting that under ordinary loads or impacts, they will not deflect downward sufficiently to break the glass below them. The construction shall be of grillwork with openings not more than ((4)) four inches long or of slatwork with openings not more than ((2)) two inches wide with length unrestricted.

(9) Wall opening barriers (rails, rollers, picket fences, and half doors) shall be of such construction and mounting that, when in place at the opening, the barrier is capable of withstanding a load of at least ((200)) two hundred pounds applied in any direction (except upward) at any point on the top rail or corresponding member.

(10) Wall opening grab handles shall be not less than ((+2)) twelve inches in length and shall be so mounted as to give ((+1/2)) one and one-half inches clearance from the side framing of the wall opening. The size, material, and anchoring of the grab handle shall be such that the completed structure is capable of withstanding a load of at least ((200)) two hundred pounds applied in any direction at any point of the handle.

(11) Wall opening screens shall be of such construction and mounting that they are capable of withstanding a load of at least ((200)) two hundred pounds applied horizontally at any point on the near side of the screen. They may be of solid construction, of grillwork with openings not more than ((8)) eight inches long, or of slatwork with openings not more than ((4)) four inches wide with length unrestricted.

#### AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

**WAC 296-24-76511 ANGLE OF STAIRWAY RISE.** (1) Fixed stairs shall be installed at angles to the horizontal of between ((30° and 50°)) thirty degrees and fifty degrees. Any uniform combination of rise/tread dimensions may be used that will result in a stairway at any angle to the horizontal within the permissible range. Table D-1 gives rise/tread dimensions which will produce a stairway within the permissible range, stating the angle to the horizontal produced by each combination. However, the rise/tread combinations are not limited to those given in Table D-1.

(2) Because of space limitations a permanent stairway sometimes has to be installed at an angle above the fifty degree critical angle. Such installations are commonly called inclined ladders or ship's ladders, which shall have handrails on both sides and open risers. They shall be capable of sustaining a live load of one hundred pounds per square foot with a safety factor of four. The following preferred and critical angles from the horizontal shall be considered for inclined ladders and ship's ladders:

- (a) Thirty-five to sixty degrees – Preferred angle from horizontal.
- (b) Sixty to seventy degrees – Critical angle from horizontal.

#### AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

**WAC 296-24-92005 INSPECTION OF LOW-PRESSURE CYLINDERS EXEMPT FROM THE HYDROSTATIC TEST INCLUDING ACETYLENE CYLINDERS.** (1) Application. This section covers cylinders of the type that are exempt from the hydrostatic retest requirements of the DOT by virtue of their exclusive use in certain noncorrosive gas service. They are not subject to internal corrosion and do not require internal shell inspection.

(2) Preparation for inspection. Rust, scale, caked paint, etc., shall be removed from the exterior surface so that the surface can be adequately observed. Facilities shall be provided for inverting the cylinder to facilitate inspection of the bottom. This is important because experience has shown this area to be the most susceptible to corrosion.

(3) Exterior inspection. Cylinders shall be checked as outlined below for corrosion, general distortion, or any other defect that might indicate a weakness which would render it unfit for service.

(a) To fix corrosion limits for all types, designs, and sizes of cylinders, and include them in this section is not practicable. Cylinders categorized by this section and subsection (1) of this section shall meet the following requirements ((of WAC 296-24-92005(3))). Failure to meet any of these requirements is of itself cause for rejection of a cylinder. Rejected cylinders shall be removed from the work place. Rejected cylinders may be returned to the manufacturer for reinspection.

(i) A cylinder shall be rejected when the tare weight is less than ((95)) ninety-five percent of the original tare weight marked on the cylinder. When determining tare weight, be sure that the cylinder is empty.

(ii) A cylinder shall be rejected when the remaining wall in an area having isolated pitting only is less than one-third of the minimum allowable wall thickness as determined under ((WAC 296-24-92005(3)(b)-(3)(d))) (b) and (d) of this subsection.

(iii) A cylinder shall be rejected when line corrosion on the cylinder is ((3)) three inches in length or over and the remaining wall is less than three-fourths of the minimum allowable wall thickness or when line corrosion is less than ((3)) three inches in length and the remaining wall thickness is less than one-half the minimum allowable wall thickness as determined under ((WAC 296-24-92005(3)))(b) through ((3))(d) of this subsection.

(iv) A cylinder shall be rejected when the remaining wall in an area of general corrosion is less than one-half of the minimum allowable wall thickness as determined under ((WAC 296-24-92005(3)))(b) through ((3))(d) of this subsection.

(b) To use the criteria in ((WAC 296-24-92005(3)))(a) of this subsection, it is necessary to know the original wall thickness of the cylinder or the minimum allowable wall thickness. Table M-1 lists the minimum allowable wall thickness under DOT specifications (49 CFR Ch.1) for a number of common size low-pressure cylinders.

TABLE M-1

| Cylinder size<br>O.D. x length<br>(inches) | DOT<br>Specification<br>marking | Nominal<br>wafer<br>capacity<br>(pounds) | Minimum<br>allowable<br>wall<br>thickness<br>(inches) |
|--|---------------------------------|--|---|
| 15 x 46 .....                              | 4B240 <sup>1</sup>              | 239                                      | 0.128   |
| 14 13/16 x 47 .....                        | 4E240                           | 239                                      | .140  |
| 14 15/16 x 46 .....                        | 4BA240                          | 239                                      | .086  |
| 14 11/16 x 28 3/8 .....                    | 4BA240                          | 143                                      | .086  |
| 11 29/32 x 32 11/16 .....                  | 4BA240                          | 95                                       | .078  |
| 11 29/32 x 18 11/32 .....                  | 4BA240                          | 48                                       | .078  |

<sup>1</sup> Without longitudinal seam.

(c) When the wall thickness of the cylinder at manufacture is not known, and the actual wall thickness cannot be measured, this cylinder shall be rejected when the inspection reveals that the deepest pit in a general corrosion area exceeds three sixtieths inch. This is arrived at by considering that in no case shall the pitting exceed one-half the minimum allowable wall thickness which is 0.064 inch. When a pit measures 0.043 inch (approximately three sixtieths inch) in a corrosion area, general corrosion will already have removed 0.021 inch of the original wall and the total pit depth as compared to the initial wall will be 0.064 inch.

(d) When the original wall thickness at manufacture is known, or the actual wall thickness is measured, this thickness less one and one-half times the maximum measured pit depth shall be 0.064 inch or greater. If it is less, the cylinder shall be rejected.

(e) Dents are of concern where the metal deformation is sharp and confined, or where they are near a weld. Where metal deformation is not sharp, dents of larger magnitude can be tolerated.

(f) Where denting occurs so that any part of the deformation includes a weld, the maximum allowable dent depth shall be one-fourth inch.

(g) When denting occurs so that no part of the deformation includes a weld, the cylinder shall be rejected if the depth of the dent is greater than one-tenth of the mean diameter of the dent.

(h) Cuts, gouges, or digs reduce the wall thickness of the cylinder and in addition are considered to be stress raisers. Depth limits are set in these standards; however, cylinders shall be rejected at one-half of the limit set whenever the length of the defect is ((3)) three inches or more.

(i) When the original wall thickness at manufacture is not known, and the actual wall thickness cannot be measured a cylinder shall be rejected if the cut, gouge, or dig exceeds one-half of the minimum allowable wall thickness as determined under ((WAC 296-24-92005 (3))) (b) through ((3)) (d) of this subsection.

(ii) When the original wall thickness at manufacture is known, or the actual wall thickness is measured, a cylinder shall be rejected if the original wall thickness minus the depth of the defect is less than one-half of the minimum allowable wall thickness as determined under ((WAC 296-24-92005 (3))) (b) through ((3)) (d) of this subsection.

(i) Leaks can originate from a number of sources, such as defects in a welded or brazed seam, defects at the threaded opening, or from sharp dents, digs, gouges, or pits.

(i) To check for leaks, the cylinder shall be charged and carefully examined. All seams and pressure openings shall be coated with a soap or other suitable solution to detect the escape of gas. Any leakage is cause for rejection.

(ii) Safety relief devices as defined in WAC 296-24-93001(1) shall be tested for leaks before a charged cylinder is shipped from the cylinder filling plant.

(j) After fire damage, cylinders shall be carefully inspected for evidence of exposure to fire.

(i) Common evidences of exposure to fire are:

- (A) Charring or burning of the paint or other protective coat.
- (B) Burning or sintering of the metal.
- (C) Distortion of the cylinder.
- (D) Melted out fuse plugs.
- (E) Burning or melting of valve.

(ii) The evaluation of fire damage by DOT regulations state that, "a cylinder which has been subjected to the action of fire must not again be placed in service until it has been properly reconditioned," in accordance with 49 CFR 173.34(f). The general intent of this requirement is to remove from service cylinders which have been subject to the action of fire which has changed the metallurgical structure or the strength properties of the steel, or in the case of acetylene cylinders caused breakdown of porous filler. This is normally determined by visual examination as covered above with particular emphasis to the condition of the protective coating. If the protective coating has been burnt off or if the cylinder body is burnt, warped, or distorted, it is assumed that the cylinder has been overheated and 49 CFR 173.34(f) shall be complied with. If, however, the protective coating is only dirtied from smoke or other debris, and is found by examination to be intact underneath, the cylinder shall not be considered affected within the scope of this requirement.

(k) Cylinders are manufactured with a reasonably symmetrical shape. Cylinders which have definite visible bulges shall be removed from service and evaluated. Cylinders shall be rejected when a variation of ((+)) one percent or more is found in the measured circumferences or in peripheral distances measured from the valve spud to the center seam (of equivalent fixed point).

(l) Cylinder necks shall be examined for serious cracks, folds, and flaws. Neck cracks are normally detected by testing the neck during charging operations with a soap solution.

(m) Cylinder neck threads shall be examined whenever the valve is removed from the cylinder. Cylinders shall be rejected if the required number of effective threads are materially reduced, or if a gas tight seal cannot be obtained by reasonable valving methods. Gages shall be used to measure the number of effective threads.

(n) If the valve is noticeably tilted the cylinder shall be rejected.

(o) The footing and headring of cylinders may become so distorted through service abuse that they no longer perform their functions:

(i) To cause the cylinder to remain stable and upright.

(ii) To protect the valve. Rings shall be examined for distortion; for looseness, and for failure of welds. Appearances may often warrant rejection of the cylinder.

#### AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

**WAC 296-24-94003 INSTALLATION AND EQUIPMENT REQUIREMENTS.** (1) Installation. Air receivers shall be so installed that all drains, handholes, and manholes therein are easily accessible. Air receivers should be supported with sufficient clearance to permit a complete external inspection and to avoid corrosion of external surfaces. Under no circumstances shall an air receiver be buried underground or located in an inaccessible place. The receiver should be located as close to the compressor or after-cooler as is possible in order to keep the discharge pipe short.

(2) Drains and traps. ((A drain pipe and valve shall be installed at the lowest point of every air receiver to provide for the removal of accumulated oil and water.)) All air receivers having an internal and external operating pressure exceeding 15 psi with no limitation on size, and air receivers having an inside diameter exceeding six inches, with no limitation on pressure, if subject to corrosion, shall be supplied with a drain pipe and valve at the lowest point in the vessel; or a pipe may be used extending inward from any other location to within one-quarter inch of the lowest point. Adequate automatic traps may be installed in addition to drain valves. The drain valve on the air receiver shall be opened and the receiver completely drained frequently and at such intervals as to prevent the accumulation of ((excessive amounts of liquid)) oil and water in the receiver.

(3) Gages and valves.

(a) Every air receiver shall be equipped with an indicating pressure gage (so located as to be readily visible) and with one or more spring-loaded safety valves. The total relieving capacity of such safety valves shall be such as to prevent pressure in the receiver from exceeding the maximum allowable working pressure of the receiver by more than 10 percent.

(b) No valve of any type shall be placed between the air receiver and its safety valve or valves.

(c) Safety appliances, such as safety valves, indicating devices and controlling devices, shall be constructed, located, and installed so that they cannot be readily rendered inoperative by any means, including the elements.

(d) All safety valves shall be tested frequently and at regular intervals to determine whether they are in good operating condition.

#### AMENDATORY SECTION (Amending Order 83-19, filed 7/13/83, effective 9/12/83)

**WAC 296-27-020 DEFINITIONS.** (1) "Act" means the Washington Industrial Safety and Health Act of 1973, chapter 49.17 RCW, as now or hereafter amended.

(2) The definitions and interpretations included in RCW 49.17.020 shall be applicable to such terms when used in this chapter, unless a different interpretation is clearly required by the context.

(3) "Recordable occupational injuries or illnesses of employees" means any occupational injury or illness of employees which result in:

(a) Occupational fatalities, regardless of the length of time between injury and death, or the length of the illness preceding the time of death (no recording is required for fatalities occurring after a termination of employment, except when recording may otherwise be required by a specific industrial safety and health standard adopted pursuant to the act); or

(b) Lost workday cases, other than fatalities, that result in lost workdays (see subsection ((6)) (7) of this section); or

(c) Occupational illnesses, or nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid) or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

(4) "Medical treatment" means and includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel.

(5) "First-aid treatment" means any one-time treatment, and any follow-up visit or visits for the purpose of observation of minor scratches, cuts, burns, splinters and so forth which do not ordinarily require professional medical care, the extent of treatment that could be expected to be given by a person trained in basic first-aid using supplies from a first-aid kit. Such one-time treatment and follow-up visit or visits for the purpose of observation are considered first aid even though provided by a physician or registered professional personnel. Tests, such as x-rays, shall not be confused with treatment.

(6) "Hospitalization" means to be sent to; to go to; or be admitted to a hospital or an equivalent medical facility and receive medical treatment beyond what would be generally classified as first-aid treatment.

(7) "Lost workdays":

(a) "Lost workdays - days away from work" means the number of days (consecutive or not) after the day of injury or illness which the employee would have worked but could not because of occupational injury or illness. The number of "lost workdays - days away from work," should not include the day of the injury, or the day the illness

occurred, or any days which the employee was not scheduled to work; e.g. Saturday, Sunday, or holidays.

(b) "Lost workdays – days of restricted activity" means the number of workdays (consecutive or not) on which, because of the injury or illness:

- (i) The employee was assigned to a temporary job; or
- (ii) The employee worked at a permanent job less than full time; or
- (iii) The employee worked at a permanently assigned job but could not perform all the duties normally assigned to that job.

The number of "lost workdays – days of restricted activity" should not include the day of the injury or the day the illness occurred, or any other days which the employee was not scheduled to work; e.g. Saturday, Sunday, or holidays, etc.

((7)) (8) "Establishment" means:

(a) A single physical location where business is conducted or where services or industrial operations are performed. (For example: A factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.) Where distinctly separate activities are performed at a single physical location, such as contract construction activities operated from the same physical location as a lumber yard, each activity shall be treated as a separate establishment.

(b) For firms engaged in activities such as agriculture, construction, transportation, communications, electric, gas or sanitary services, which may be physically disbursed, "establishment" means a place to which employees report each day.

(c) For employees who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as travelling salesmen, technicians, engineers, etc., "establishment" means the location from which they are paid, or the base from which employees operate to carry out their activities.

((8)) (9) Establishments classified in standard industrial classification codes (SIC) 52 through 89.

(a) Establishments whose primary activity constitutes retail trade; finance, insurance, real estate and services are classified in SIC's 52 through 89.

(b) Retail trades are classified as SIC's 52 through 59 and for the most part include establishments engaged in selling merchandise to the general public for personal or household consumption. Some of the retail trades are: Automotive dealers, apparel and accessory stores, furniture and home furnishing stores, and eating and drinking places.

(c) Finance, insurance and real estate are classified as SIC's 60 through 67 and include establishments which are engaged in banking, credit other than banking, security dealings, insurance, and real estate.

(d) Services are classified as SIC's 70 through 89 and include establishments which provide a variety of services for individuals, businesses, government agencies, and other organizations. Some of the service industries are: Personal and business services, in addition to legal, education, social, and cultural; and membership organizations.

(e) The primary activity of an establishment is determined as follows: For finance, insurance, real estate, and services establishments, the value of receipts or revenue for services rendered by an establishment determines its primary activity. In establishments with diversified activities, the activities determined to account for the largest share of production, sales or revenue will identify the primary activity. In some instances these criteria will not adequately represent the relative economic importance of each of the varied activities. In such cases, employment or payroll should be used in place of the normal basis for determining the primary activity.

((9)) (10) "WISHERS" means Washington industrial safety and health evaluation and reporting system.

((10)) (11) "Occupational illness" means such illness as arises naturally and approximately out of employment under the provisions of the act.

Note: Examples of occupational illnesses appear on the instruction page of Form OSHA No. 200.

((11)) (12) "Occupational" means industrial and industrial means occupational.

((12)) (13) "OSHA" means occupational safety and health administration.

**AMENDATORY SECTION** (Amending Order 76-38, filed 12/30/76)

**WAC 296-32-230 TRAINING.** (1) Employers shall provide training in the various precautions and safe practices described in this section and shall insure that employees do not engage in the activities

to which this chapter applies until such employees have received proper training in the various precautions and safe practices required by this section. However, where the employer can demonstrate that an employee is already trained in the precautions and safe practices required by this section prior to his employment, training need not be provided to that employee in accordance with this section.

(2) Where training is required, it shall consist of on-the-job training or classroom-type training or a combination of both.

(3) The training program shall include a list of the subject courses and the types of personnel required to receive such instruction. A written description of the training program and a record of employees who have received such training shall be maintained for the duration of the employee's employment and shall be made available upon request to the assistant director of industrial safety and health, or his authorized representative.

(4) Such training shall, where appropriate, include the following subjects:

(a) Recognition and avoidance of dangers relating to encounters with harmful substances, and animal, insect, or plant life.

(b) Procedures to be followed in emergency situations, and

(c) First aid training, including instruction in artificial respiration.

(5) It shall be the responsibility of the employer to hold monthly safety meetings at practical points throughout the operation and insist upon employees attending said meetings. Minutes shall be kept of each safety meeting and retained for a period of one year.

(6) It shall be the responsibility of management to develop and maintain a hazard communication program as required by WAC 296-62-054 through 296-62-05427 which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

**AMENDATORY SECTION** (Amending Order 86-26, filed 7/25/86)

**WAC 296-44-44009 GENERAL.** (1) Mechanical protection for supply conductors or cables shall be provided as required by WAC 296-44-170 through 296-44-31792. This protection should extend at least one foot below ground level.

(2) Supply conductors or cable should rise vertically from the cable trench with only such deviation as necessary to permit a reasonable cable bending radius.

(3) Exposed conductive pipes or guards containing supply conductors or cables shall be grounded in accordance with WAC 296-44-36551.

(4) All supply conductors or cables from underground systems which connect to overhead systems shall be protected by a metal pipe or conduit which gives mechanical protection up to a point not less than eight feet above the ground and forty inches above communications circuits for public use. Schedule 80 PVC (polyvinyl chloride) piping shall be acceptable as a substitute for metal on both high and low voltage conductors. The conductor on the pole above eight feet will be covered with wood molding or other suitable protective material.

**AMENDATORY SECTION** (Amending Order 76-38, filed 12/30/76)

**WAC 296-45-65009 EMPLOYER'S RESPONSIBILITY.** (1) The employer shall provide and maintain the necessary protective devices specified in these rules and require the employees to use them properly.

(2) The employer shall develop and maintain a hazard communication program as required by WAC 296-62-054 through 296-62-05427 which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(3) There shall be installed and maintained in every fixed establishment employing eight or more persons a safety bulletin board of a size to display and post safety bulletins, newsletters, posters, accident statistics and other safety educational material. It is recommended that safety bulletin boards be painted green and white.

((3)) (4) The employer shall require the foremen to observe and enforce all safety rules and shall furnish a copy of the electrical workers' safety rules to each employee who is covered by these rules.

((4)) (5) The employer shall appoint only competent workers to supervise other employees and those appointed shall be responsible for the safety of the employees under their supervision.

((5)) (6) The employer shall hold safety meetings at least once a month, which meetings shall be held at a reasonable time and place as

selected by the employer. The employer shall require all employees subject to provisions of this chapter to attend said meetings: PROVIDED, That employees whose presence is otherwise required by reason of an emergency or whose function is such that they cannot leave their station or cease their work without serious detriment to the service provided, such as dispatcher, may be excused from such meeting under those circumstances.

Minutes shall be kept of each safety meeting and retained for a period of one year.

((6)) (7) The employer or a representative(s) designated by him shall investigate all accidents or injuries of a serious nature and, where possible, take the proper remedial steps to prevent the occurrence of similar accidents.

((7)) (8) The employer shall furnish instructions stating the proper procedure in event of an emergency, which shall include the names of those individuals to be notified and methods of contacting them.

((8)) (9) The employer shall provide and make available to all employees accident report and safety suggestion forms.

((9)) (10) In the case of fatal accident, immediate notice shall be given by the employer or his authorized representative either by telephone or telegraph (collect) to the department of labor and industries, division of industrial safety and health, Olympia, Washington, or any of its branch offices. All such notices shall include time, place, and date of the accident and the employer's name.

((10)) (11) Nothing contained within this chapter shall prohibit an employer or his authorized representative from disciplining employees for failure to comply with the provisions of this or any other safety code.

#### AMENDATORY SECTION (Amending Order 76-38, filed 12/30/76)

**WAC 296-45-65041 AERIAL MANLIFT EQUIPMENT.** This section applies to aerial manlift equipment as defined in WAC 296-45-65005.

(1) A daily visual inspection and operating tests shall be made in accordance with the manufacturer's recommendation by the assigned operator.

(2) Aerial manlift equipment shall be of the type designed and maintained to meet the following safety factors:

(a) Stability test. All such equipment shall meet or exceed a safety factor of one and one-half to one in all working positions, based upon the posted working load.

(b) Structural and mechanical tests. All such equipment shall meet or exceed a safety factor of 2 to 1 in all working positions, based upon the manufacturer's maximum rated capacity.

((1)) The division of industrial safety and health will accept, in lieu of ((subdivision)) (b) of this ((section)) subsection, the safety factor test data submitted by the manufacturer by a competent testing laboratory, or by a registered engineering firm. When and if there exists a reasonable doubt as to whether or not the equipment will meet the data required for stability in structural and mechanical testing, the division may require that such testing be performed on such equipment before it can be used. If the division in writing requires that the employer test its equipment or have such equipment tested, the employer will have a reasonable time within which to secure such information as is required by this rule.

(3) Employee shall not move any such equipment in the direction of an obstructed view unless the following requirements have been met. (An obstructed view exists even though the operator is able to see to the rear by reason of a system of mirrors or a mirror.)

((1)) (a) Vehicle can be backed up only when observer signals that it is safe to do so or the driver makes a walk-around inspection prior to backing up, or

((1)) (b) The vehicle has a reverse signal alarm audible above the surrounding noise level.

(4) Hydraulic fluids.

((1)) All hydraulic fluids used for the insulated section of derrick trucks, aerial lifts, and hydraulic tools which are used on or around energized lines or equipment shall be of the insulating type.

(5) Mechanical adjustment or repairs shall not be attempted or performed in the field except by a person qualified to perform such work.

(6) Malfunction or needed repairs of manlift equipment shall be reported to the employee responsible for such repairs as soon as is reasonably possible. Use of equipment which is known to be in need of repairs or is malfunctioning is prohibited when such deficiency creates an unsafe operating condition.

(7) No employee shall ride in the basket while traveling to or from jobsites.

(8) When the support vehicle of any aerial manlift equipment is parked for operation at the jobsite, the brakes shall be set((Wheel chocks shall be used to prevent accidental movement while parked on an incline. If the aerial manlift equipment has outriggers, the outriggers shall be imbedded on firm footing)) and when outriggers are used, they shall be positioned on pads or a solid surface. Use of outriggers is optional when the support vehicle of aerial manlift equipment is constructed in such a manner that makes the use of outriggers unnecessary, such as with torsion bar stabilizers or other devices that increase stability and eliminates the need for outriggers, even though installed on the vehicle. Wheel chocks shall be installed before using an aerial lift on an incline, provided they can be safely installed. All manufacturer's specifications shall be complied with.

(9) Safety check valves shall be installed in the outrigger hydraulic system which will automatically lock the outrigger in position in case of failure of the hydraulic system except when outriggers are equipped with mechanically self-locking device.

(10) The truck shall not be moved until the boom or ladder is cradled and/or fastened down, the outrigger retracted, and the power take-off disengaged, except for a short move when the truck can be moved with care and under the direction of the employee in the elevated position.

(11) Employees shall not sit or stand on the basket edge, stand on materials placed in or across the basket, or work from a ladder set inside the basket.

(12) The basket shall not be rested on a fixed object(s) so that the weight of the boom is either totally or partially supported by the basket.

(13) Neither the basket, supporting boom or ladder on aerial equipment shall come within the prohibited distance of energized high voltage conductors or equipment as set forth in Table I unless protective equipment is used. Special approved insulated tools, insulated fittings and insulated masts need not comply with this section.

(14) When the basket is being used in such a manner that it may contact energized high voltage lines or equipment, the vehicle shall be considered energized at line potential and the following safe practices shall be observed unless such equipment is grounded:

(a) Approved protective devices shall be used.

(b) Before physically contacting, entering or leaving the vehicle, all employees shall make sure that the boom and basket is stationary and not in contact with energized high voltage lines or equipment.

(15) While working in aerial equipment, employees shall wear an approved safety belt attached to the boom or basket, in a secure manner.

(16) No component of aerial devices shall be operated from the ground without permission from the employee in the basket except in case of emergency.

(17) Truck driver shall remain at tower controls while workers are working on towers except when the aerial manlift equipment has been properly chocked to prevent uncontrolled movement. Tower trucks shall be equipped with a reliable signaling device between the employees working on the tower and the truck driver.

(18) Working on truck towers. Employees shall not stand on tower gates or railings. Work shall not be done from plank(s) placed on tower railings.

(19) Tower truck railings. Towers shall have standard railings and toeboards around the tower and all railings shall be constructed of wood, fiberglass or other nonmetallic material. All railings shall be a vertical height of not less than 36 inches or more than 42 inches from the floor of the platform to the upper surface of the top rail. Intermediate railings shall be midway between the floor and the underside of the top rail. Tower gates shall be so constructed as to prevent accidental opening.

(20) Tower truck decks shall be kept clear of tools, wire and other materials and tools shall be kept in proper storage area when not in use.

(21) Linemen shall not wear climbers or spurs while working on a tower truck.

(22) Employees operating controls of aerial equipment shall not stand on the ground or on separate grounded surface unless wearing rubber gloves or standing on insulated board or mat, where equipment is exposed to or operated in the near vicinity of high voltage conductors.

(23) Operating levers or controls shall be kept clear of tools, materials or obstructions.

(24) Load limits as recommended by the manufacturer of aerial manlift equipment shall not be exceeded. Shock loading of the equipment is prohibited.

(25) Employees shall not climb into or out of the basket or platform while it is elevated or change from one basket to another on dual basket equipment, except in case of emergency or when the employees involved agree that this is the safest way to perform the work. This exception shall not be used to circumvent safety rules.

(26) Employees shall not belt to adjacent poles, structures, or equipment while performing work from aerial devices.

(27) Whenever it is necessary to work beyond the guarded traffic work area, extreme care shall be exercised and all precautions taken to insure the safety of the operation and the employees.

(28) Power tools not in use shall be disconnected from external power sources.

(29) Electrical, hydraulic or air tools shall have safety switches or devices to prevent accidental operation and, in addition, a quick means of disconnecting on electrically operated equipment shall be within easy reach of the operator.

(30) Existing safety rules governing the use of hot line tools, rubber and other protective equipment and safe work practices while performing work from poles or structures shall also apply to work done from aerial manlift equipment.

(31) The basket shall be kept clean and all tools not in use shall be secured or removed.

(32) Approved warning light shall be operating when the boom leaves the cradle. This light shall be visible to approaching traffic when the boom is in position over any traveled area.

(33) A braking system, independent of the drive-line braking system, shall be installed on all aerial manlift equipment where, from the engineering standpoint, it is feasible.

(34) Safety check valves shall be installed in the hydraulic system of aerial manlift equipment to automatically lock the boom or ladder in position in case of failure to any part of the hydraulic pressure system.

(35) All aerial manlift equipment shall have both upper and lower controls (except ladder trucks need not have upper controls). The upper controls shall not be capable of rendering the lower controls inoperative. The lower controls should be located at or near the base of the aerial structure.

If the lower controls are used, the operator shall have a view of the elevated employee(s) or there shall be communication between the operator and the employee in the elevated aerial structure: PROVIDED, That no employee shall be raised, lowered, or moved into or from the elevated position in any aerial manlift equipment unless there is another employee, not in the elevated aerial structure, available at the site to operate the lower controls, except as follows:

(a) Where there is a fixed method permanently attached to or part of the equipment which will permit an employee to descend from the elevated position without lowering the elevated structure, or

(b) Where there is a system which will provide operation from the elevated position in the event of failure or malfunction of the primary system.

This section shall not be interpreted as an exception to any other rule in this chapter.

(36) Controls in aerial manlift equipment shall be protected from accidental operation. Controls of the outriggers shall also be protected from accidental operation. Such protection may be by guarding or equivalent means.

(37) The manufacturer's recommended maximum load limit shall be posted at a conspicuous place near each set of controls and shall be kept in a legible condition.

(38) Side member guys on aerial ladders shall be insulated.

(39) The manufacturer's operator's instructional manual shall be kept on the vehicle.

(40) Operating instructions, proper sequence and maintenance procedures prescribed by the manufacturer for operation of the equipment shall be followed.

## NEW SECTION

**WAC 296-45-67545 REFUELING OPERATIONS.** (1) Under no circumstances shall the refueling of any type helicopter with either aviation gasoline or Jet B (Turbine) type fuel be permitted while the engines are running.

(2) Helicopters using Jet A (Turbine-Kerosene) type fuel may be refueled with engines running provided the following criteria is met:

(a) No unauthorized persons shall be allowed within fifty feet of the refueling operation or fueling equipment.

(b) A minimum of one thirty-pound fire extinguisher, or a combination of same, good for class A, B and C fires, shall be provided within one hundred feet on the upwind side of the refueling operation.

(c) All fueling personnel shall be thoroughly trained in the refueling operation and in the use of the available fire extinguishing equipment they may be expected to utilize.

(d) There shall be no smoking, open flames, exposed flame heaters, flare pots, or open flame lights within fifty feet of the refueling area or fueling equipment. All entrances to the refueling area shall be posted with "NO SMOKING" signs.

(e) Due to the numerous causes of static electricity, it shall be considered present at all times. Prior to starting refueling operations, the fueling equipment and the helicopter shall be grounded and the fueling nozzle shall be electrically bonded to the helicopter. The use of conductive hose shall not be accepted to accomplish this bonding. All grounding and bonding connections shall be electrically and mechanically firm, to clean unpainted metal parts.

(f) To control spills, fuel shall be pumped either by hand or power. Pouring or gravity flow shall not be permitted. Self-closing nozzles or deadman controls shall be used and shall not be blocked open. Nozzles shall not be dragged along the ground.

(g) In case of a spill, the fueling operation shall be immediately stopped until such time as the person-in-charge determines that it is safe to resume the refueling operation.

(h) When ambient temperatures have been in the one hundred degrees Fahrenheit range for an extended period of time, all refueling of helicopters with the engines running shall be suspended until such time as conditions become suitable to resume refueling with the engines running.

(3) Helicopters with their engines stopped being refueled with aviation gasoline or Jet B (Turbine) type fuel, shall also comply with subsection (2)(a) through (g) of this section.

## AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

**WAC 296-54-507 MANAGEMENT'S RESPONSIBILITY.** In addition to observance of the general safety and health standards:

(1) The employer shall assume the responsibility of safety training for new employees.

(2) The employer shall develop and maintain a hazard communication program as required by WAC 296-62-054 through 296-62-05427 which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(3) The employer shall assume the responsibility of work assignments so that no employee shall be allowed to work in a position or location so isolated that he is not within ordinary calling distance of another employee who can render assistance in case of emergency. In any operation where cutting, yarding, loading, or a combination of these duties is carried on, there shall be a minimum of two employees who shall work as a team and shall be in visual or hearing contact with one another to allow prompt awareness of injury or cessation of work activity of one employee by the other. No employee shall be left alone for a period of time to exceed fifteen minutes without visual or hearing contact. In addition, there shall be some system of back-up communication in the near proximity to enable an employee to call for assistance in case of emergency.

Note: This does not apply to operators of motor vehicles, watchmen or certain other jobs which, by their nature, are singular employee assignments. However, a definite procedure for checking the welfare of all employees during their working hours shall be instituted and all employees so advised.

((3))) (4) The employer shall establish a method of checking the employees in from the woods at the end of each shift. Each immediate supervisor shall be responsible for his crew being accounted for. This standard also includes operators of all movable equipment.

((4))) (5) Prior to the commencement of logging operations in a new area or setting, a safety meeting shall be held and a plan shall be developed and implemented whereby management shall ascertain by direct supervision that the work is being carried out with special emphasis on safety and safe work practices.

((5))) (6) When extreme weather or other extreme conditions are such that additional hazards arise, additional precautions shall be taken to assure safe operations. If the operation cannot be made safe because of the aforementioned conditions, the work shall be discontinued until safe to resume.

((7)) (7) Danger trees within reach of landings, roads, rigging, buildings or work areas shall be either felled before regular operations begin or work shall be arranged so that employees shall not be exposed to hazards involved.

((7)) (8) Management shall ensure that intoxicating beverages and narcotics are not permitted or used by employees on or in the vicinity of the work site. Management shall cause employees under the influence of alcohol or narcotics to be removed from the work site. This requirement does not apply to employees taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the employee or others.

#### AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-56-60001 SCOPE AND APPLICABILITY. (1) The rules included in this chapter apply throughout the state of Washington, to any and all waterfront operations under the jurisdiction of the department of labor and industries, division of industrial safety and health.

(2) These minimum requirements are promulgated in order to augment the general safety and health standards, and any other safety and health standards promulgated by the department of labor and industries which are applicable to all places of employment under the jurisdiction of the department of labor and industries. The rules of this chapter, and the rules of chapters 296-24 and 296-62 WAC are applicable to all longshore, stevedore and related waterfront operations: PROVIDED, That such rules shall not be applicable to those operations under the exclusive safety jurisdiction of the federal government.

(3) The provisions of this chapter shall prevail in the event of a conflict with, or duplication of, provisions contained in chapters 296-24 and 296-62 WAC. Specific standards which are applicable include, but are not limited to:

- (a) Electrical—WAC 296-24-956 through 296-24-960.
- (b) Toxic and hazardous substances are regulated by chapter 296-62 WAC. Where references to this chapter are given they are for informational purposes only. Where specific requirements of this chapter conflict with the provisions of chapter 296-62 WAC this chapter prevails. Chapter 296-62 WAC does not apply when a substance or cargo is contained within a manufacturer's original, sealed, intact means of packaging or containment complying with the department of transportation or International Maritime Organization requirements.
- (c) Hearing conservation—WAC 296-62-09015 through 296-62-09055.
- (d) Standards for commercial diving operations—Chapter 296-37 WAC.
- (e) Safety requirements for scaffolding—WAC 296-24-825 through 296-24-82545.
- (f) Safe practices of abrasive blasting operations((, ventilation))—WAC 296-24-675 through 296-24-67519.
- (g) Access to employee exposure and medical records—WAC 296-62-052 through 296-62-05221.
- (h) Respiratory protection—WAC 296-62-071 through 296-62-07121.
- (i) Safety rules for grain elevator ((operations)) operators—Chapter ((296-88)) 296-99 WAC.
- (j) Hazard communication purpose—WAC 296-62-054 through 296-62-05427.
- (k) Asbestos—WAC 296-62-07517.
- (l) Confined space—WAC 296-62-145 through 296-62-14529.
- (m) The provisions of this chapter do not apply to the following:
  - (a) Fully automated bulk coal handling facilities contiguous to electrical power generating plants.
  - (b) Facilities subject to the regulations of the office of pipeline safety regulation of the materials transportation bureau, department of transportation, to the extent such regulations apply.

#### AMENDATORY SECTION (Amending Order 86-02, filed 1/17/86)

WAC 296-56-60069 PERSONNEL. (1) Qualifications of machinery operators.

(a) Only those employees determined by the employer to be competent by reason of training or experience, who understand the signs, notices and operating instructions and are familiar with the signal code in use shall be permitted to operate a crane, winch or other power-operated cargo handling apparatus, or any power-operated vehicle, or give signals to the operator of any hoisting apparatus. Employees being trained and supervised by a designated individual may operate such machinery and give signals to operators during training.

(b) No employee known to have defective uncorrected eyesight or hearing, or to be suffering from heart disease, epilepsy, or similar ailments which may suddenly incapacitate the employee shall be permitted to operate a crane, winch, other power-operated cargo handling apparatus or a power-operated vehicle.

(c) Persons who have recovered from a heart attack shall be exempted from the provisions of (b) of this subsection, as it pertains to their heart condition, provided:

(i) A medical release is obtained from their attending medical doctor.

(ii) The release shall state that the operation of a crane, winch, power-operated cargo handling apparatus or power-operated vehicle, will not present a hazard to themselves or others.

(iii) An examination by a medical doctor, and renewal of the work release certification is required annually.

(2) Supervisory accident prevention proficiency.

(a) Immediate supervisors of cargo-handling operations of more than five persons shall satisfactorily complete a course in accident prevention. Employees newly assigned to supervisory duties shall be required to meet the provisions of this paragraph within ninety days of such assignment.

(b) The course shall consist of instruction suited to the particular operations involved.

(c) No minor under eighteen years of age shall be employed in occupations involving the operation of any power-operated hoisting apparatus or assisting in such operations by performing work such as hooking on or landing drafts, rigging gear, etc.

#### AMENDATORY SECTION (Amending Order 86-02, filed 1/17/86)

WAC 296-56-60103 TERMINALS HANDLING INTERMODAL CONTAINERS OR ROLL-ON ROLL-OFF OPERATIONS. (1) Every intermodal container shall be legibly and permanently marked with:

- (a) The weight of the container when empty, in pounds;
- (b) The maximum cargo weight the container is designed to carry, in pounds; and
- (c) The sum of the maximum weight of the container with cargo, in pounds (gross container capacity).

(2) No container shall be hoisted by any crane or derrick unless the following conditions have been met:

(a) The employer shall ascertain from the carrier whether a container to be hoisted is loaded or empty. Empty containers shall be identified before loading or discharge in such a manner as will inform every supervisor and foreman on the site and in charge of loading or discharging, and every crane or other hoisting equipment operator and signalman, if any, that the container is empty. Methods of identification may include cargo plans, manifests or markings on the container.

(b) In the case of a loaded container:

(i) The actual gross weight shall be plainly marked so as to be visible to the crane operator, other hoisting equipment operator, signalman, and to every supervisor and foreman on the site and in charge of the operation; or

(ii) The cargo stowage plan or equivalent permanently recorded display serving the same purpose, containing the actual gross weight and the serial number or other positive identification of that specific container, shall be provided to the crane or other hoisting equipment operator and signalman, if any, and to every supervisor and foreman on the site and in charge of the operation.

(c) Every outbound loaded container which is received at a marine terminal ready to load aboard a vessel without further consolidation or loading shall be weighed to obtain the actual gross weight before being hoisted.

(d)(i) When container weighing scales are located at a marine terminal, any outbound container with a load consolidated at that terminal shall be weighed to obtain an actual weight before being hoisted.

(ii) If the terminal has no scales, the actual gross weight may be calculated on the basis of the container's contents and the container's empty weight. The weights used in the calculation shall be posted conspicuously on the container, with the name of the person making the calculation and the date.

(iii) Container weights shall be subject to random sample weight checks at the nearest weighing facility. In cases where such weight checks or experience otherwise indicate consistently inaccurate weights, the weight of containers so calculated at the source from which the inaccurate weights originated shall no longer be recognized as true gross weights. Such containers shall not be hoisted unless actual gross weights have been obtained by weighing.

(e) ((Open type vehicle carrying containers and those built specifically and used solely for the carriage of compressed gases)) The following containers are exempted from the requirements of ((subsection (2))) (c) and (d) of this ((section)) subsection:

(i) Open type vehicle containers.

(ii) Dry, or closed type containers, which are being used to transport vehicles and which contain no other cargo, and have the contents clearly marked on the outside.

(iii) Containers built specifically for the carriage of compressed gases.

(f) The weight of loaded inbound containers from foreign ports shall be determined by weighing or by the method of calculation described in (d)(ii) of this subsection or by shipping documents.

(g) Any scale used within Washington state to weigh containers for the purpose of the requirements of this section shall meet the accuracy standards of the state or local public authority in which the scale is located.

(3) No container shall be hoisted if its actual gross weight exceeds the weight marked as required in subsection (1)(c) of this section, or if it exceeds the capacity of the crane or other hoisting device intended to be used.

(4)(a) Marked or designated areas shall be set aside within a container or roll-on roll-off terminal for passage of employees to and from active cargo transfer points, except where transportation to and from those points is provided by the employer.

(b) The employer shall direct employees to stay clear of the area beneath a suspended container. Employees shall stay clear of the area beneath a suspended container.

(5) Employees working in the immediate area of container handling equipment or in the terminal's traffic lanes shall wear high visibility vests, decals, reflectors or equivalent protection.

(6) Containers shall be handled using lifting fittings or other arrangements suitable and intended for the purposes set forth in (a) and (c) of this subsection, except when damage to an intermodal container makes special means of handling necessary.

(a) Loaded intermodal containers of twenty feet (6.1 m) or more in length shall be hoisted as follows:

(i) When hoisting by the top fittings, the lifting forces shall be applied vertically from at least four fittings or by means which will safely lift the container without damage. The lifting fittings provided shall be used.

(ii) If hoisted from bottom fittings, the hoisting connections shall bear on the fittings only, making no other contact with the container. The angles of the four bridle legs shall not be less than thirty degrees to the horizontal in the case of forty foot (12.2 m) containers, thirty-seven degrees in the case of thirty foot (9.1 m) containers, or forty-five degrees in the case of twenty foot (6.1 m) containers.

(iii) Lifting containers by fork lift trucks or by grappling arms from above or from one side may be done only if the container is designed for this type of handling.

(b) Means of hoisting other than those required by subsection (2) of this section may be used only if the containers and hoisting means are designed for such use.

(c)(i) When using intermodal container spreaders that employ lanyards for activation of load-disengagement, all possible precautions shall be taken to prevent accidental release of the load.

(ii) Intermodal container spreader twistlock systems shall be designed and used so that a suspended load cannot accidentally be released.

(7) Flat bed trucks or container chassis used to move intermodal containers shall be equipped with pins, flanges, or other means to prevent the container from shifting.

(8)(a) Intermodal containers shall be inspected for defects in structural members or fittings before handling.

(b) Any intermodal container found to be unsafe shall be identified as such, promptly removed from service and repaired before being returned to service.

(9) Containers shall not be hoisted unless all engaged chassis twist locks are released.

#### AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-59-005 INCORPORATION OF OTHER STANDARDS. (1) Lifts and tows shall be designed, installed, operated, and maintained in accordance with American National Standard Institute

(ANSI) B77.1-1982, Standards for Passenger Tramways—Aerial Tramways and Lifts, Surface Lifts, and Tows—Safety Requirements.

(2) Future revised editions of ANSI B77.1-1982 may be used for new installations or major modifications of existing installations, as recommended or approved by the equipment manufacturer or a qualified design engineer, except that, where specific provisions exist, variances shall be requested from the department.

(3) Commercial explosives shall be transported, stored, and used in compliance with chapter 296-52 WAC, Safety standards for the possession and handling of explosives, and chapter 70.74 RCW, Washington State Explosives Act, except that avalanche control blasting shall comply with the special provisions of this chapter.

(4) The use of military type weapons for avalanche control shall comply with all requirements of the United States government and/or the military branch having jurisdiction. Compliance shall include qualification of employees, security requirements, and storage and handling of ammunition.

(5) The employer shall develop and maintain a hazard communication program as required by WAC 296-62-054 through 296-62-05427 which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(6) When employees perform activities such as construction work or logging, the WAC chapter governing the specific activity shall apply, e.g., chapter 296-155 or 296-54 WAC, et seq.

#### AMENDATORY SECTION (Amending Order 81-21, filed 8/27/81)

WAC 296-62-052 ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS. ((This standard establishes rights of access to the information by employees and designated representatives; while at the same time affording appropriate privacy and confidentiality protection:))

#### AMENDATORY SECTION (Amending Order 81-21, filed 8/27/81)

WAC 296-62-05201 PURPOSE. The purpose of this section is to provide employees and their designated representatives a right of access to relevant exposure and medical records, and to provide representatives of the director of labor and industries a right of access to these records in order to fulfill responsibilities under the Washington Industrial Safety and Health Act. Access by employees, their representatives, and the director of labor and industries is necessary to yield both direct and indirect improvements in the detection, treatment and prevention of occupational disease. Each employer is responsible for assuring compliance with this section, but the activities involved in complying with the access to medical records provisions can be carried out, on behalf of the employer, by the physician or other health care personnel in charge of employee medical records. Except as expressly provided, nothing in this section is intended to affect existing legal and ethical obligations concerning the maintenance and confidentiality of employee medical information, the duty to disclose information to a patient/employee or any other aspect of the medical-care relationship, or affect existing legal obligations concerning the protection of trade secret information.

#### AMENDATORY SECTION (Amending Order 81-21, filed 8/27/81)

WAC 296-62-05203 SCOPE AND APPLICATION. (1) This section applies to every employer, except as provided in subsection (4) of this section, who makes, maintains, contracts for, or has access to employee exposure or medical records, or analyses thereof, pertaining to employees exposed to toxic substances or harmful physical agents.

(2) This section applies to all employee exposure and medical records, and analyses thereof, of such employees ((exposed to toxic substances or harmful physical agents)), whether or not the records are ((related to)) mandated by specific occupational safety and health standards.

(3) This section applies to all employee exposure and medical records, and analyses thereof, made or maintained in any manner, including on an in-house or contractual (e.g., fee-for-service) basis. Each employer shall assure that the preservation and access requirements of this section are complied with regardless of the manner in which records are made or maintained.

(4) This section does not apply to the agricultural operations covered by chapter 296-306 WAC.

AMENDATORY SECTION (Amending Order 81-21, filed 8/27/81)

WAC 296-62-05205 DEFINITIONS ((APPLICABLE TO THIS SECTION)). (1) Access – the right and opportunity to examine and copy.

(2) Analysis using exposure or medical records – any compilation of data, or any ((research,)) statistical ((or other)) study based at least in part on information collected from individual employee exposure or medical records or information collected from health insurance claims records, provided that either the analysis has been reported to the employer or no further work is currently being done by the person responsible for preparing the analysis.

(3) Designated representative – any individual or organization to whom an employee gives written authorization to exercise a right of access. For the purposes of access to employee exposure records and analyses using exposure or medical records, a recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

(4) Employee – a current employee, a former employee, or an employee being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents. In the case of a deceased or legally incapacitated employee, the employee's legal representative may directly exercise all the employee's rights under this section.

(5) Employee exposure record – a record containing any of the following kinds of information ((concerning employee exposure to toxic substances or harmful physical agents)):

(a) Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;

(b) Biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs;

(c) Material safety data sheets indicating that the material may pose a hazard to human health; or

(d) In the absence of the above, a chemical inventory or any other record which reveals where and when used and the identity (e.g., chemical, common or trade name) of a toxic substance or harmful physical agent.

(6)(a) Employee medical record – a record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel, or technician, including:

(i) Medical and employment questionnaires or histories (including job description and occupational exposures);

(ii) The results of medical examinations (preemployment, pre-assignment, periodic, or episodic) and laboratory tests (including chest and other x-ray examinations taken for purposes of establishing a base-line or detecting occupational illness, and all biological monitoring not defined as an "employee exposure record");

(iii) Medical opinions, diagnoses, progress notes, and recommendations;

(iv) First-aid records;

(v) Descriptions of treatments and prescriptions; and

((t+)) (vi) Employee medical complaints.

(b) Employee medical record does not include ((the following)) medical information in the form of:

(i) Physical specimens (e.g., blood or urine samples) which are routinely discarded as a part of normal medical practice((, and are not required to be maintained by other legal requirements)); or

(ii) Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier (e.g., Social Security number, payroll number, etc.); or

(iii) Records created solely in preparation for litigation which are privileged from discovery under applicable rules or procedure or evidence; or

(iv) Records concerning voluntary employee assistance programs (alcohol, drug abuse, or personal counseling programs) if maintained separately from the employer's medical program and its records.

(7) Employer – a current employer, a former employer or a successor employer.

(8) Exposure or exposed – an employee is subjected to a toxic substance or harmful physical agent in the course of employment through

any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes past exposure and potential (e.g., accidental or possible) exposure, but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical nonoccupational situations.

(9) Health professional – a physician, occupational health nurse, industrial hygienist, toxicologist, or epidemiologist, providing medical or other occupational health services to exposed employees.

(10) Record – any item, collection, or grouping of information regardless of the form or process by which it is maintained (e.g., paper document, microfiche, microfilm, x-ray film, or automated data processing).

((t+)) (11) Specific chemical identity – the chemical name, chemical abstracts service (CAS) registry number, or any other information that reveals the precise chemical designation of the substance.

(12)(a) Specific written consent – ((t+)) a written authorization containing the following:

(i) The name and signature of the employee authorizing the release of medical information;

(ii) The date of the written authorization;

(iii) The name of the individual or organization that is authorized to release the medical information;

(iv) The name of the designated representative (individual or organization) that is authorized to receive the released information;

(v) A general description of the medical information that is authorized to be released;

(vi) A general description of the purpose for the release of the medical information; and

(vii) A date or condition upon which the written authorization will expire (if less than one year).

(b) A written authorization does not operate to authorize the release of medical information not in existence on the date of written authorization, unless ((this)) the release of future information is expressly authorized, and does not operate for more than one year from the date of written authorization.

(c) A written authorization may be revoked in writing prospectively at any time.

((t+)) (13) Toxic substance or harmful physical agent – any chemical substance, biological agent (bacteria, virus, fungus, etc.), or physical stress (noise, heat, cold, vibration, repetitive motion, ionizing and nonionizing radiation, hypo- or hyperbaric pressure, etc.) which:

(a) ((is regulated by any WISHA law or rule due to a hazard to health;

((t+)) (b) Is listed in the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) (See Appendix B); or

((t+)) (c) Has yielded positive evidence of an acute or chronic health hazard in ((human, animal, or other biological)) testing conducted by, or known to, the employer; or

((t+)) (d) Is the subject of a material safety data sheet ((available)) kept by or known to the employer indicating that the material may pose a hazard to human health.

(14) Trade secret – any confidential formula, pattern, process, device, or information or compilation of information that is used in an employer's business and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

AMENDATORY SECTION (Amending Order 81-21, filed 8/27/81)

WAC 296-62-05207 PRESERVATION OF RECORDS. (1) Unless a specific occupational safety and health standard provides a different period of time, each employer shall assure the preservation and retention of records as follows:

(a) Employee medical records. The medical record for each employee ((medical record)) shall be preserved and maintained for at least the duration of employment plus thirty years, except that the following types of records need not be retained for any specific period:

(i) Health insurance claims records maintained separately from the employer's medical program and its records ((need not be retained for any specified period));

(ii) First-aid records (not including medical histories) of one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and the like which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job, if made on-site by a nonphysician and if maintained separately from the employer's medical program and its records; and

(iii) The medical records of employees who have worked for less than one year for the employer need not be retained beyond the term of employment if they are provided to the employee upon the termination of employment.

(b) Employee exposure records. Each employee exposure record shall be preserved and maintained for at least thirty years, except that:

(i) Background data to environmental (workplace) monitoring or measuring, such as laboratory reports and worksheets, need only be retained for one year ((so)) as long as the sampling results, the collection methodology (sampling plan), a description of the analytical and mathematical methods used, and a summary of other background data relevant to interpretation of the results obtained, are retained for at least thirty years; and

(ii) Material safety data sheets and WAC 296-62-05205(5) records concerning the identity of a substance or agent need not be retained for any specified period as long as some record of the identity (chemical name if known) of the substance or agent, where it was used, and when it was used is retained for at least thirty years; and

(iii) Biological monitoring results designated as exposure records by specific occupational safety and health standards shall be preserved and maintained as required by the specific standard.

(c) Analyses using exposure or medical records. Each analysis using exposure or medical records shall be preserved and maintained for at least thirty years.

(2) Nothing in this section is intended to mandate the form, manner, or process by which an employer preserves a record ((so)) as long as the information contained in the record is preserved and retrievable, except that chest x-ray films shall be preserved in their original state.

#### AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

##### WAC 296-62-05209 ACCESS TO RECORDS. (1) General.

(a) Whenever an employee or designated representative requests access to a record, the employer shall assure that access is provided in a reasonable time, place, and manner((, but in no event later than fifteen days after the request for access is made)). If the employer cannot reasonably provide access to the record within fifteen working days, the employer shall within fifteen working days apprise the employee or designated representative requesting the record of the reason for the delay and the earliest date when the record can be made available.

(b) The employer may require of the requester only such information as should be readily known to the requester and which may be necessary to locate or identify the records being requested (e.g., dates and locations where the employee worked during the time period in question).

(c) Whenever an employee or designated representative requests a copy of a record, the employer shall((, within the period of time previously specified;)) assure that either:

(i) A copy of the record is provided without cost to the employee or representative;

(ii) The necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record; ((or))

(iii) The record is loaned to the employee or representative for a reasonable time to enable a copy to be made; or

(iv) In the case of an original x-ray, the employer may restrict access to on-site examination or make other suitable arrangements for the temporary loan of the x-ray.

((e))) (d) Whenever a record has been previously provided without cost to an employee or designated representative, the employer may charge reasonable, nondiscriminatory administrative costs (i.e., search and copying expenses but not including overhead expenses) for a request by the employee or designated representative for additional copies of the record, except that:

(i) An employer shall not charge for an initial request for a copy of new information that has been added to a record which was previously provided; and

(ii) An employer shall not charge for an initial request by a recognized or certified collective bargaining agent for a copy of an employee exposure record or an analysis using exposure or medical records.

((d))) (e) Nothing in this section is intended to preclude employees and collective bargaining agents from collectively bargaining to obtain access to information in addition to that available under this section.

(2) Employee and designated representative access.

(a) Employee exposure records. Except as limited by WAC 296-62-05211, each employer shall, upon request, assure the access of each

employee and designated representative to employee exposure records relevant to the employee. For the purpose of this section, an exposure record(s) relevant to the employee consists of:

(i) A record(s) of the employee's past or present exposure to toxic substances or harmful physical agents) which measures or monitors the amount of a toxic substance or harmful physical agent to which the employee is or has been exposed;

((Exposure)) In the absence of such directly relevant records, such records of other employees with past or present job duties or working conditions related to or similar to those of the employee to the extent necessary to reasonably indicate the amount and nature of the toxic substances or harmful physical agents to which the employee is or has been subjected; and

((Records containing exposure information concerning the employee's workplace or working conditions, and

((Exposure records pertaining to workplaces or working conditions to which the employee is being assigned or transferred;)) Exposure records to the extent necessary to reasonably indicate the amount and nature of the toxic substances or harmful physical agents at workplaces or under working conditions to which the employee is being assigned or transferred.

((Requests by designated representatives for unconsented access to employee exposure records shall be in writing and shall specify with reasonable particularity:

(A) The records requested to be disclosed; and

(B) The occupational health need for gaining access to these records.

(b) Employee medical records.

(i) Each employer shall, upon request, assure the access of each employee to employee medical records of which the employee is the subject, except as provided in ((subdivision (2)))((b)(iv) of this ((section)) subsection.

(ii) Each employer shall, upon request, assure the access of each designated representative to the employee medical records of any employee who has given the designated representative specific written consent. Appendix A to this section contains a sample form which may be used to establish specific written consent for access to employee medical records.

(iii) Whenever access to employee medical records is requested, a physician representing the employer may recommend that the employee or designated representative:

(A) Consult with the physician for the purposes of reviewing and discussing the records requested;

(B) Accept a summary of material facts and opinions in lieu of the records requested; or

(C) Accept release of the requested records only to a physician or other designated representative.

(iv) Whenever an employee requests access to his or her employee medical records, and a physician representing the employer believes that direct employee access to information contained in the records regarding a specific diagnosis of a terminal illness or a psychiatric condition could be detrimental to the employee's health, the employer may inform the employee that access will only be provided to a designated representative of the employee having specific written consent, and deny the employee's request for direct access to this information only. Where a designated representative with specific written consent requests access to information so withheld, the employer shall assure the access of the designated representative to this information, even when it is known that the designated representative will give the information to the employee.

((Nothing in this section precludes)) A physician, nurse, or other responsible health care personnel maintaining employee medical records ((from deleting)) may delete from requested medical records the identity of a family member, personal friend, or fellow employee who has provided confidential information concerning an employee's health status.

(c) Analyses using exposure or medical records.

(i) Each employer shall, upon request, assure the access of each employee and designated representative to each analysis using exposure or medical records concerning the employee's working conditions or workplace.

(ii) Whenever access is requested to an analysis which reports the contents of employee medical records by either direct identifier (name, address, social security number, payroll number, etc.) or by information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc.) the employer shall assure that

personal identifiers are removed before access is provided. If the employer can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of the analysis need not be provided.

(3) Department access.

(a) Each employer shall upon request, and without derogation of any rights under the Constitution or the Washington Industrial Safety and Health Act, that the employer chooses to exercise, assure the ((immediate)) prompt access of representatives of the director of the department of labor and industries to employee exposure and medical records and to analyses using exposure or medical records. Rules of agency practice and procedures governing WISHA access to employee medical records ((shall apply)) are contained in this chapter.

(b) Whenever the department seeks access to personally identifiable employee medical information by presenting to the employer a written access order, the employer shall prominently post a copy of the written access order and its accompanying cover letter for at least fifteen working days.

AMENDATORY SECTION (Amending Order 81-21, filed 8/27/81)

WAC 296-62-05211 TRADE SECRETS. (1) Except as provided in subsection (2) of this section, nothing in this section precludes an employer from deleting from records requested by ((an)) a health professional, employee, or designated representative any trade secret data which discloses manufacturing processes, or discloses the percentage of a chemical substance in a mixture, as long as the health professional, employee, or designated representative is notified that information has been deleted. Whenever deletion of trade secret information substantially impairs evaluation of the place where or the time when exposure to a toxic substance or harmful physical agent occurred, the employer shall provide alternative information which is sufficient to permit the ((employee)) requesting party to identify where and when exposure occurred.

((2) Notwithstanding any trade secret claims, whenever access to records is requested, the employer shall provide access to chemical or physical agent identities including chemical names, levels of exposure, and employee health status data contained in the requested records.

(3) Whenever trade secret information is provided to an employee or designated representative, the employer may require, as a condition of access, that the employee or designated representative agree in writing not to use the trade secret information for the purpose of commercial gain and not to permit misuse of the trade secret information by a competitor or potential competitor of the employer.)

(2) The employer may withhold the specific chemical identity, including the chemical name and other specific identification of a toxic substance from a disclosable record provided that:

(a) The claim that the information withheld is a trade secret can be supported;

(b) All other available information on the properties and effects of the toxic substance is disclosed;

(c) The employer informs the requesting party that the specific chemical identity is being withheld as a trade secret; and

(d) The specific chemical identity is made available to health professionals, employees, and designated representatives in accordance with the specific applicable provisions of this subsection.

(3) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a toxic substance is necessary for emergency or first-aid treatment, the employer shall immediately disclose the specific chemical identity of a trade secret chemical to the treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of subsections (4) and (5) of this section, as soon as circumstances permit.

(4) In nonemergency situations, an employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under subsection (2) of this section, to a health professional, employee, or designated representative if:

(a) The request is in writing;

(b) The request describes with reasonable detail one or more of the following occupational health needs for the information:

- (i) To assess the hazards of the chemicals to which employees will be exposed;
- (ii) To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;
- (iii) To conduct preassignment or periodic medical surveillance of exposed employees;

(iv) To provide medical treatment to exposed employees;

(v) To select or assess appropriate personal protective equipment for exposed employees;

(vi) To design or assess engineering controls or other protective measures for exposed employees; and

(vii) To conduct studies to determine the health effects of exposure.

(c) The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information would not enable the health professional, employee, or designated representative to provide the occupational health services described in (b) of this subsection:

(i) The properties and effects of the chemical;

(ii) Measures for controlling workers' exposure to the chemical;

(iii) Methods of monitoring and analyzing worker exposure to the chemical; and

(iv) Methods of diagnosing and treating harmful exposures to the chemical.

(d) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and

(e) The health professional, employee, or designated representative and the employer or contractor of the services of the health professional or designated representative agree in a written confidentiality agreement that the health professional, employee, or designated representative will not use the trade secret information for any purpose other than the health need(s) asserted and agree not to release the information under any circumstances other than to WISHA, as provided in subsection (9) of this section, except as authorized by the terms of the agreement or by the employer.

(5) The confidentiality agreement authorized by subsection (4)(d) of this section:

(a) May restrict the use of the information to the health purposes indicated in the written statement of need;

(b) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable preestimate of likely damages; and

(c) May not include requirements for the posting of a penalty bond.

(6) Nothing in this section is meant to preclude the parties from pursuing noncontractual remedies to the extent permitted by law.

(7) If the health professional, employee, or designated representative receiving the trade secret information decides that there is a need to disclose it to WISHA, the employer who provided the information shall be informed by the health professional prior to, or at the same time as, such disclosure.

(8) If the employer denies a written request for disclosure of a specific chemical identity, the denial must:

(a) Be provided to the health professional, employee, or designated representative within thirty days of the request;

(b) Be in writing;

(c) Include evidence to support the claim that the specific chemical identity is a trade secret;

(d) State the specific reasons why the request is being denied; and

(e) Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

(9) The health professional, employee, or designated representative whose request for information is denied under subsection (4) of this section may refer the request and the written denial of the request to WISHA for consideration.

(10) When a health professional, employee, or designated representative refers a denial to WISHA under subsection (9) of this section, WISHA shall consider the evidence to determine if:

(a) The employer has supported the claim that the specific chemical identity is a trade secret;

(b) The health professional, employee, or designated representative has supported the claim that there is a medical or occupational health need for the information; and

(c) The health professional, employee, or designated representative has demonstrated adequate means to protect the confidentiality.

(11)(a) If WISHA determines that the specific chemical identity requested under subsection (4) of this section is not a bona fide trade secret, or that it is a trade secret but the requesting health professional, employee, or designated representative has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means for complying with the terms of such agreement, the employer will be subject to citation by WISHA.



consult RTECS to ascertain whether their employee exposure or medical records are subject to the standard. Employers who do not currently have the latest printed edition of the NIOSH RTECS, however, may desire to obtain a copy. The RTECS is issued in an annual printed edition as mandated by section 20(a)(6) of the Occupational Safety and Health Act (29 U.S.C. 669(a)(6)). ((The 1979 edition is the most recent printed edition as of July 1, 1981.

The RTECS may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington D.C. 20402 (202-783-3238). New editions are anticipated to be issued in the late summer of each year. Some employers may also desire to subscribe to the quarterly update to the RTECS which is published in a microfiche edition. An annual subscription to the quarterly microfiche may be purchased from the GPO (Order the "Microfiche Edition, Registry of Toxic Effects of Chemical Substances"). Both the printed edition and the microfiche edition of RTECS are available for review at many university and public libraries throughout the country. The latest RTECS editions may also be examined at any OSHA regional or area office.)) The introduction to the 1980 printed edition describes the RTECS as follows:

"The 1980 edition of the Registry of Toxic Effects of Chemical Substances, formerly known as the Toxic Substances list, is the ninth revision prepared in compliance with the requirements of Section 20(a)(6) of the Occupational Safety and Health Act of 1970 (Public Law 91-596). The original list was completed on June 28, 1971, and has been updated annually in book format. Beginning in October 1977, quarterly revisions have been provided in microfiche. This edition of the Registry contains 168,096 listings of chemical substances: 45,156 are names of different chemicals with their associated toxicity data and 122,940 are synonyms. This edition includes approximately 5,900 new chemical compounds that did not appear in the 1979 Registry." (p.xi)

The Registry's purposes are many, and it serves a variety of users. It is a single source document for basic toxicity information and for other data, such as chemical identifiers and information necessary for the preparation of safety directives and hazard evaluations for chemical substances. The various types of toxic effects linked to literature citations provide researchers and occupational health scientists with an introduction to the toxicological literature, making their own review of the toxic hazards of a given substance easier. By presenting data on the lowest reported doses that produce effects by several routes of entry in various species, the Registry furnishes valuable information to those responsible for preparing safety data sheets for chemical substances in the workplace. Chemical and production engineers can use the Registry to identify the hazards which may be associated with chemical intermediates in the development of final products, and thus can more readily select substitutes or alternative processes which may be less hazardous. Some organizations, including health agencies and chemical companies, have included the NIOSH Registry accession numbers with the listing of chemicals in their files to reference toxicity information associated with those chemicals. By including foreign language chemical names, a start has been made toward providing rapid identification of substances produced in other countries." (p.xi)

"In this edition of the Registry, the editors intend to identify "all known toxic substances" which may exist in the environment and to provide pertinent data on the toxic effects from known doses entering an organism by any route described." (p.xi)

"It must be reemphasized that the entry of a substance in the Registry does not automatically mean that it must be avoided. A listing does mean, however, that the substance has the documented potential of being harmful if misused, and care must be exercised to prevent tragic consequences. Thus, the Registry lists many substances that are common in everyday life and are in nearly every household in the United States. One can name a variety of such dangerous substances: Prescription and nonprescription drugs; food additives; pesticide concentrates, sprays, and dusts; fungicides; herbicides; paints; glazes, dyes; bleaches and other household cleaning agents; alkalies; and various solvents and diluents. The list is extensive because chemicals have become an integral part of our existence."

The RTECS printed edition may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402 (202-783-3238).

Some employers may desire to subscribe to the quarterly update to the RTECS which is published in a microfiche edition. An annual subscription to the quarterly microfiche may be purchased from the GPO (Order the "Microfiche Edition, Registry of Toxic Effects of Chemical Substances"). Both the printed edition and the microfiche edition of

RTECS are available for review at many university and public libraries throughout the country. The latest RTECS editions may also be examined at the OSHA Technical Data Center, Room N2439—Rear, United States Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 (202-523-9700), or at any OSHA Regional or Area Office (See, major city telephone directories under United States Government—Labor Department)."

#### AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-07531 APPENDIX D SAMPLING AND ANALYTICAL METHODS FOR BENZENE MONITORING AND MEASUREMENT PROCEDURES. Measurements taken for the purpose of determining employee exposure to benzene are best taken so that the representative average eight-hour exposure may be determined from a single eight-hour sample or two four-hour samples. Short-time interval samples (or grab samples) may also be used to determine average exposure level if a minimum of five measurements are taken in a random manner over the eight-hour work shift. Random sampling means that any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken on one work shift is an estimate of an employee's average level of exposure for that work shift. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee). Sampling and analysis must be performed with procedures meeting the requirements of the standard.

There are a number of methods available for monitoring employee exposures to benzene. The sampling and analysis may be performed by collection of the benzene vapor on charcoal adsorption tubes, with subsequent chemical analysis by gas chromatography. Sampling and analysis may also be performed by portable direct reading instruments, real-time continuous monitoring systems, passive dosimeters or other suitable methods. The employer has the obligation of selecting a monitoring method which meets the accuracy and precision requirements of the standard under his unique field conditions. The standard requires that the method of monitoring must have an accuracy, to a ninety-five percent confidence level, of not less than plus or minus twenty-five percent for concentrations of benzene greater than or equal to 0.5 ppm.

The WISHA laboratory uses NIOSH Method 1500 for evaluation of benzene air concentrations.

(1) WISHA method HYDCB for air samples.

Analyte: Benzene.

Matrix: Air.

Procedure: Adsorption on charcoal, desorption with carbon disulfide, analysis by GC.

Detection limit: 0.25 ppm.

Recommended air volume and sampling rate: 10L at 0.05 to 0.2 L/min.

(a) Principle of the method.

(i) A known volume of air is drawn through a charcoal tube to trap the organic vapors present.

(ii) The charcoal in the tube is transferred to a small, stoppered vial, and the analyte is desorbed with carbon disulfide.

(iii) An aliquot of the desorbed sample is injected into a gas chromatograph.

(iv) The area of the resulting peak is determined and compared with areas obtained from standards.

(b) Advantages and disadvantages of the method.

(i) The sampling device is small, portable, and involves no liquids. Interferences are minimal, and most of those which do occur can be eliminated by altering chromatographic conditions. The samples are analyzed by means of a quick, instrumental method.

(ii) The amount of sample which can be taken is limited by the number of milligrams that the tube will hold before overloading. When the sample value obtained for the backup section of the charcoal tube exceeds twenty-five percent of that found on the front section, the possibility of sample loss exists.

(c) Apparatus.

(i) A calibrated personal sampling pump whose flow can be determined within  $\pm 5$  percent at the recommended flow rate.

(ii) Charcoal tubes: Glass with both ends flame sealed, 7 cm long with a 6-mm O.D. and a 4-mm I.D., containing two sections of 20/40 mesh activated charcoal separated by a 2-mm portion of urethane foam. The activated charcoal is prepared from coconut shells and is obtained commercially. The adsorbing section contains 100 mg of charcoal, the back-up section 50 mg. A 3-mm portion of urethane

foam is placed between the outlet end of the tube and the back-up section. A plug of silanized glass wool is placed in front of the adsorbing section. The pressure drop across the tube must be less than one inch of mercury at a flow rate of one liter per minute.

(iii) Gas chromatograph equipped with a flame ionization detector.  
 (iv) Column (10-ft 1/8-in stainless steel) packed with 80/100 Supelcoport coated with twenty percent SP 2100, 0.1 percent CW 1500.

(v) An electronic integrator or some other suitable method for measuring peak area.

(vi) Two-milliliter sample vials with Teflon-lined caps.

(vii) Microliter syringes: 10-microliter 10- $\mu$ L syringe, and other convenient sizes for making standards, 1- $\mu$ L syringe for sample injections.

(viii) Pipets: 1.0 mL delivery pipets.

(ix) Volumetric flasks: Convenient sizes for making standard solutions.

(d) Reagents.

(i) Chromatographic quality carbon disulfide (CS<sub>2</sub>). Most commercially available carbon disulfide contains a trace of benzene which must be removed. It can be removed with the following procedure:

Heat under reflux for two to three hours, 500 mL of carbon disulfide, 10 mL concentrated sulfuric acid, and five drops of concentrated nitric acid. The benzene is converted to nitrobenzene. The carbon disulfide layer is removed, dried with anhydrous sodium sulfate, and distilled. The recovered carbon disulfide should be benzene free. (It has recently been determined that benzene can also be removed by passing the carbon disulfide through 13x molecular sieve.)

(ii) Benzene, reagent grade.

(iii) p-Cymene, reagent grade, (internal standard).

(iv) Desorbing reagent. The desorbing reagent is prepared by adding 0.05 mL of p-Cymene per milliliter of carbon disulfide. (The internal standard offers a convenient means correcting analytical response for slight inconsistencies in the size of sample injections. If the external standard technique is preferred, the internal standard can be eliminated.)

(v) Purified GC grade helium, hydrogen, and air.

(e) Procedure.

(i) Cleaning of equipment. All glassware used for the laboratory analysis should be properly cleaned and free of organics which could interfere in the analysis.

(ii) Calibration of personal pumps. Each pump must be calibrated with a representative charcoal tube in the line.

(iii) Collection and shipping of samples.

(A) Immediately before sampling, break the ends of the tube to provide an opening at least one-half the internal diameter of the tube (2 mm).

(B) The smaller section of the charcoal is used as the backup and should be placed nearest the sampling pump.

(C) The charcoal tube should be placed in a vertical position during sampling to minimize channelling through the charcoal.

(D) Air being sampled should not be passed through any hose or tubing before entering the charcoal tube.

(E) A sample size of ten liters is recommended. Sample at a flow rate of approximately 0.05 to 0.2 liters per minute. The flow rate should be known with an accuracy of at least  $\pm$  5 percent.

(F) The charcoal tubes should be capped with the supplied plastic caps immediately after sampling.

(G) Submit at least one blank tube (a charcoal tube subjected to the same handling procedures, without having any air drawn through it) with each set of samples. Take necessary shipping and packing precautions to minimize breakage of samples.

(iv) Analysis of samples.

(A) Preparation of samples. In preparation for analysis, each charcoal tube is scored with a file in front of the first section of charcoal and broken open. The glass wool is removed and discarded. The charcoal in the first (larger) section is transferred to a 2-ml vial. The separating section of foam is removed and discarded; the second section is transferred to another capped vial. These two sections are analyzed separately.

(B) Desorption of samples. Prior to analysis, 1.0 mL of desorbing solution is pipetted into each sample container. The desorbing solution consists of 0.05  $\mu$ L internal standard per mL of carbon disulfide. The

sample vials are capped as soon as the solvent is added. Desorption should be done for thirty minutes with occasional shaking.

(C) GC conditions. Typical operating conditions for the gas chromatograph are:

(I) mL/min (60 psig) helium carrier gas flow.

(II) mL/min (40 psig) hydrogen gas flow to detector.

(III) mL/min (40 psig) air flow to detector.

(IV) 250°C injector temperature.

(V) 250°C detector temperature.

(VI) Column temperature variable.

(D) Injection size, 1  $\mu$ L.

(D) Measurement of area. The peak areas are measured by an electronic integrator or some other suitable form of area measurement.

(F) An internal standard procedure is used. The integrator is calibrated to report results in ppm for a ten liter air sample after correction for desorption efficiency.

(v) Determination of desorption efficiency.

(A) Importance of determination. The desorption efficiency of a particular compound can vary from one laboratory to another and from one lot of chemical to another. Thus, it is necessary to determine, at least once, the percentage of the specific compound that is removed in the desorption process, provided the same batch of charcoal is used.

(B) Procedure for determining desorption efficiency. The reference portion of the charcoal tube is removed. To the remaining portion, amounts representing 0.5X, 1X, and 2X and (X represents target concentration) based on a 10 L air sample are injected into several tubes at each level. Dilutions of benzene with carbon disulfide are made to allow injection of measurable quantities. These tubes are then allowed to equilibrate at least overnight. Following equilibration they are analyzed following the same procedure as the samples. Desorption efficiency is determined by dividing the amount of benzene found by amount spiked on the tube.

(f) Calibration and standards. A series of standards varying in concentration over the range of interest is prepared and analyzed under the same GC conditions that will be used on the samples. A calibration curve is prepared by plotting concentration (mg/mL) versus peak area.

(g) Calculations. Benzene air concentration can be calculated from the following equation:

$$\text{mg/m}^3 = (A)(B)/(C)(D)$$

Where: A=mg/mL benzene, obtained from the calibration curve

B=desorption volume (1 mL)

C=Liters of air sampled

D=desorption efficiency

The concentration in mg/m<sup>3</sup> can be converted to ppm (at 25°C and 760 mm) with the following equation:

$$\text{ppm} = (\text{mg/m}^3)(24.46)/(78.11)$$

Where: 24.46=molar volume of an ideal gas

25°C and 760 mm

78.11=molecular weight of benzene

(h) Backup data.

(i) Detection limit-air samples.

The detection limit for the analytical procedure is 2.2 mg with a coefficient of variation of 0.023 at this level. This would be equivalent to an air concentration of 0.25 ppm for a 10 L air sample. This amount provided a chromatographic peak that could be identifiable in the presence of possible interferences. The detection limit data were obtained by making 1  $\mu$ L injections of a 2.2 mg/mL standard.

| Injection | Area Count |                   |
|-----------|------------|-------------------|
| 1 .....   | 655.4      |                   |
| 2 .....   | 617.5      |                   |
| 3 .....   | 662.0      |                   |
| 4 .....   | 641.1      |                   |
| 5 .....   | 636.4      |                   |
| 6 .....   | 629.2      |                   |
|           |            | $\bar{x} = 640.2$ |
|           |            | SD = 14.9         |
|           |            | CV = 0.023        |

(ii) Pooled coefficient of variation-Air Samples. The pooled coefficient of variation for the analytical procedure was determined by 1  $\mu$ L replicate injections of analytical standards. The standards were 16.04, 32.08, and 64.16  $\mu$ g/mL, which are equivalent to 0.5, 1.0, and 2.0 ppm for a 10 L air sample respectively.

| Injection       | Area Counts |         |         |
|-----------------|-------------|---------|---------|
|                 | 0.5 ppm     | 1.0 ppm | 2.0 ppm |
| 1 .....         | 3996.5      | 8130.2  | 16481   |
| 2 .....         | 4059.4      | 8235.6  | 16493   |
| 3 .....         | 4052.0      | 8307.9  | 16535   |
| 4 .....         | 4027.2      | 8263.2  | 16609   |
| 5 .....         | 4046.8      | 8291.1  | 16552   |
| 6 .....         | 4137.9      | 8288.8  | 16618   |
| $\bar{x}$ =     | 4053.3      | 8254.0  | 16548.3 |
| SD=             | 47.2        | 62.5    | 57.1    |
| CV=             | 0.0116      | 0.0076  | 0.0034  |
| CV = 0.008..... | .....       | .....   | .....   |

## (iii) Storage data-air samples.

Samples were generated at 1.03 ppm benzene at eighty percent relative humidity, 22° C, and 643 mm. All samples were taken for fifty minutes at 0.2 L/min. Six samples were analyzed immediately and the rest of the samples were divided into two groups by fifteen samples each. One group was stored at refrigerated temperature of -25° C, and the other group was stored at ambient temperature (approximately 23° C). These samples were analyzed over a period of fifteen days. The results are tabulated below.

## PERCENT RECOVERY

| Day Analyzed | Refrigerated | Ambient |
|--------------|--------------|---------|
| 0 .....      | 97.4         | 98.7    |
| 0 .....      | 97.1         | 100.6   |
| 2 .....      | 95.8         | 96.4    |
| 5 .....      | 93.9         | 93.7    |
| 9 .....      | 93.6         | 95.5    |
| 13 .....     | 94.3         | 95.3    |
| 15 .....     | 96.8         | 95.8    |
|              | 98.9         | 98.9    |
|              | 100.9        | 100.9   |
|              | 96.9         | 96.9    |
|              | 94.1         | 94.1    |
|              | 96.6         | 96.6    |
|              | 94.6         | 94.6    |
|              | 95.0         | 95.0    |
|              | 94.6         | 94.6    |
|              | 95.9         | 95.9    |

## (iv) Desorption data.

Samples were prepared by injecting liquid benzene onto the A section of charcoal tubes. Samples were prepared that would be equivalent to 0.5, 1.0, and 2.0 ppm for a 10 L air sample.

## PERCENT RECOVERY

| Sample      | 0.5 ppm | 1.0 ppm | 2.0 ppm |
|-------------|---------|---------|---------|
| 1 .....     | 99.4    | 98.8    | 99.5    |
| 2 .....     | 99.5    | 98.7    | 99.7    |
| 3 .....     | 99.2    | 98.6    | 99.8    |
| 4 .....     | 99.4    | 99.1    | 100.0   |
| 5 .....     | 99.2    | 99.0    | 99.7    |
| 6 .....     | 99.8    | 99.1    | 99.9    |
| $\bar{x}$ = | 99.4    | 98.9    | 99.8    |
| SD=         | 0.22    | 0.21    | 0.18    |
| CV=         | 0.0022  | 0.0021  | 0.0018  |
| CV = 99.4   | .....   | .....   | .....   |

## (v) Carbon disulfide.

Carbon disulfide from a number of sources was analyzed for benzene contamination. The results are given in the following table. The benzene contaminant can be removed with the procedures given in (section 4-+) (d)(i) of this subsection.

| SAMPLE                        | ug Benzene/mL | ppm equivalent<br>(for 10 L air sample) |
|-------------------------------|---------------|---|
| Aldrich Lot 83017.....        | 4.20          | 0.13                                    |
| Baker Lot 720364.....         | 1.01          | 0.03                                    |
| Baker Lot 822351.....         | 1.01          | 0.03                                    |
| Malinkrodt Lot WEMP.....      | 1.74          | 0.05                                    |
| Malinkrodt Lot WHGA .....     | 5.65          | 0.18                                    |
| Treated CS <sub>2</sub> ..... | 2.90          | 0.09                                    |

## (2) WISHA laboratory method for bulk samples.

Analyte: Benzene.

Matrix: Bulk samples.

Procedure: Bulk samples are analyzed directly by high performance liquid chromatography (HPLC) or by capillary gas chromatography. See laboratory manual for GC procedure.

Detection limits: 0.01% by volume.

(a) Principle of the method.

(i) An aliquot of the bulk sample to be analyzed is injected into a liquid chromatograph or gas chromatograph.

(ii) The peak area for benzene is determined and compared to areas obtained from standards.

(b) Advantages and disadvantages of the method.

(i) The analytical procedure is quick, sensitive, and reproducible.

(ii) Reanalysis of samples is possible.

(iii) Interferences can be circumvented by proper selection of HPLC parameters or GC parameters.

(iv) Samples must be free of any particulates that may clog the capillary tubing in the liquid chromatograph. This may require distilling the sample or clarifying with a clarification kit.

(c) Apparatus.

(i) Liquid chromatograph equipped with a UV detector or capillary gas chromatograph with FID detector.

(ii) HPLC column that will separate benzene from other components in the bulk sample being analyzed. The column used for validation studies was a Waters uBondapack C18, 30 cm x 3.9 mm.

(iii) A clarification kit to remove any particulates in the bulk if necessary.

(iv) A micro-distillation apparatus to distill any samples if necessary.

(v) An electronic integrator or some other suitable method of measuring peak areas.

(vi) Microliter syringes—10  $\mu$ L syringe and other convenient sizes for making standards. 10  $\mu$ L syringe for sample injections.

(vii) Volumetric flasks, 5 mL and other convenient sizes for preparing standards and making dilutions.

(d) Reagents.

(i) Benzene, reagent grade.

(ii) HPLC grade water, methyl alcohol, and isopropyl alcohol.

(e) Collection and shipment of samples.

(i) Samples should be transported in glass containers with Teflon-lined caps.

(ii) Samples should not be put in the same container used for air samples.

(f) Analysis of samples.

(i) Sample preparation.

If necessary, the samples are distilled or clarified. Samples are analyzed undiluted. If the benzene concentration is out of the working range, suitable dilutions are made with isopropyl alcohol.

(ii) HPLC conditions.

The typical operating conditions for the high performance liquid chromatograph are:

(A) Mobile phase—Methyl alcohol/water, 50/50.

(B) Analytical wavelength—254 nm.

(C) Injection size—10  $\mu$ L.

(iii) Measurement of peak area and calibration.

Peak areas are measured by an integrator or other suitable means. The integrator is calibrated to report results % in benzene by volume.

(g) Calculations.

Since the integrator is programmed to report results in % benzene by volume in an undiluted sample, the following equation is used:

% Benzene by Volume=A x B

Where: A=% by volume on report

B=Dilution Factor

(B=1 for undiluted sample)

(h) Backup data.

(i) Detection limit—bulk samples.

The detection limit for the analytical procedure for bulk samples is 0.88 ug, with a coefficient of variation of 0.019 at this level. This amount provided a chromatographic peak that could be identifiable in the presence of possible interferences. The detection limit data were obtained by making 10  $\mu$ L injections of a 0.10% by volume standard.

|                     |       |
|---------------------|-------|
| 1 .....             | 45386 |
| 2 .....             | 44214 |
| 3 .....             | 43822 |
| 4 .....             | 44062 |
| 6 .....             | 42724 |
| $\bar{x}$ = 44040.1 |       |
| SD = 852.5          |       |
| CV = 0.019          |       |

## (ii) Pooled coefficient of variation—bulk samples.

The pooled coefficient of variation for analytical procedure was determined by 50  $\mu$ L replicate injections of analytical standards. The standards were 0.01, 0.02, 0.04, 0.10, 1.0, and 2.0% benzene by volume.

| Injection No. | 0.01    | 0.02    | 0.04   | 0.10   | 1.0     | 2.0     |
|---------------|---------|---------|--------|--------|---------|---------|
| 1 .....       | 45386   | 84737   | 166097 | 448497 | 4395380 | 9339150 |
| 2 .....       | 44241   | 84300   | 170832 | 441299 | 4590800 | 9484900 |
| 3 .....       | 43822   | 83835   | 164160 | 443719 | 4593200 | 9557580 |
| 4 .....       | 44062   | 84381   | 164445 | 444842 | 4642350 | 9677060 |
| 5 .....       | 44006   | 83012   | 168338 | 442564 | 4646430 | 9766240 |
| 6 .....       | 42724   | 81957   | 173002 | 443975 | 4646280 | .....   |
| X=            | 44040.1 | 83703.6 | 167872 | 444149 | 4585767 | 9564986 |
| SD=           | 852.5   | 1042.2  | 3589.8 | 2459.1 | 96839.3 | 166233  |
| CV=           | 0.0194  | 0.0125  | 0.0213 | 0.0055 | 0.0211  | 0.0174  |
| CV=           | 0.017   |         |        |        |         |         |

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

#### WAC 296-62-07544 APPENDIX B—SAMPLING STRATEGY AND ANALYTICAL METHODS FOR FORMALDEHYDE.

(1) To protect the health of employees, exposure measurements must be unbiased and representative of employee exposure. The proper measurement of employee exposure requires more than a token commitment on the part of the employer. WISHA's mandatory requirements establish a baseline; under the best of circumstances all questions regarding employee exposure will be answered. Many employers, however, will wish to conduct more extensive monitoring before undertaking expensive commitments, such as engineering controls, to assure that the modifications are truly necessary. The following sampling strategy, which was developed at NIOSH by Nelson A. Leidel, Kenneth A. Busch, and Jeremiah R. Lynch and described in NIOSH publication No. 77-173 (Occupational Exposure Sampling Strategy Manual) will assist the employer in developing a strategy for determining the exposure of his or her employees.

(2) There is no one correct way to determine employee exposure. Obviously, measuring the exposure of every employee exposed to formaldehyde will provide the most information on any given day. Where few employees are exposed, this may be a practical solution. For most employers, however, use of the following strategy will give just as much information at less cost.

(3) Exposure data collected on a single day will not automatically guarantee the employer that his or her workplace is always in compliance with the formaldehyde standard. This does not imply, however, that it is impossible for an employer to be sure that his or her worksite is in compliance with the standard. Indeed, a properly designed sampling strategy showing that all employees are exposed below the PELs, at least with a ninety-five percent certainty, is compelling evidence that the exposure limits are being achieved provided that measurements are conducted using valid sampling strategy and approved analytical methods.

(4) There are two PELs, the TWA concentration and the STEL.

(a) Most employers will find that one of these two limits is more critical in the control of their operations, and OSHA expects that the employer will concentrate monitoring efforts on the critical component.

(b) If the more difficult exposure is controlled, this information, along with calculations to support the assumptions, should be adequate to show that the other exposure limit is also being achieved.

(5) Sampling strategy.

(a) Determination of the need for exposure measurements.

(b) The employer must determine whether employees may be exposed to concentrations in excess of the action level. This determination becomes the first step in an employee exposure monitoring program that minimizes employer sampling burdens while providing adequate employee protection.

(c) If employees may be exposed above the action level, the employer must measure exposure. Otherwise, an objective determination that employee exposure is low provides adequate evidence that exposure potential has been examined.

(d) The employer should examine all available relevant information, e.g., insurance company and trade association data and information from suppliers or exposure data collected from similar operations.

(e) The employer may also use previously-conducted sampling including area monitoring. The employer must make a determination relevant to each operation although this need not be on a separate piece of paper.

(f) If the employer can demonstrate conclusively that no employee is exposed above the action level or the STEL through the use of objective data, the employer need proceed no further on employee exposure

monitoring until such time that conditions have changed and the determination is no longer valid.

(g) If the employer cannot determine that employee exposure is less than the action level and the STEL, employee exposure monitoring will have to be conducted.

##### (6) Workplace material survey.

(a) The primary purpose of a survey of raw material is to determine if formaldehyde is being used in the work environment and if so, the conditions under which formaldehyde is being used.

(b) The first step is to tabulate all situations where formaldehyde is used in a manner such that it may be released into the workplace atmosphere or contaminate the skin. This information should be available through analysis of company records and information on the MSDSs available through provisions of this standard and the hazard communication standard.

(c) If there is an indication from materials handling records and accompanying MSDSs that formaldehyde is being used in the following types of processes or work operations, there may be a potential for releasing formaldehyde into the workplace atmosphere:

(i) Any operation that involves grinding, sanding, sawing, cutting, crushing, screening, sieving, or any other manipulation of material that generates formaldehyde-bearing dust.

(ii) Any processes where there have been employee complaints or symptoms indicative of exposure to formaldehyde.

(iii) Any liquid or spray process involving formaldehyde.

(iv) Any process that uses formaldehyde in preserved tissue.

(v) Any process that involves the heating of a formaldehyde-bearing resin.

Processes and work operations that use formaldehyde in these manners will probably require further investigation at the worksite to determine the extent of employee monitoring that should be conducted.

##### (7) Workplace observations.

(a) To this point, the only intention has been to provide an indication as to the existence of potentially exposed employees. With this information, a visit to the workplace is needed to observe work operations, to identify potential health hazards, and to determine whether any employees may be exposed to hazardous concentrations of formaldehyde.

(b) In many circumstances, sources of formaldehyde can be identified through the sense of smell. However, this method of detection should be used with caution because of olfactory fatigue.

(c) Employee location in relation to source of formaldehyde is important in determining if an employee may be significantly exposed to formaldehyde. In most instances, the closer a worker is to the source, the higher the probability that a significant exposure will occur.

Other characteristics should be considered. Certain high temperature operations give rise to higher evaporation rates. Locations of open doors and windows provide natural ventilation that tend to dilute formaldehyde emissions. General room ventilation also provides a measure of control.

##### (8) Calculation of potential exposure concentrations.

(a) By knowing the ventilation rate in a workplace and the quantity of formaldehyde generated, the employer may be able to determine by calculation if the PELs might be exceeded.

(b) To account for poor mixing of formaldehyde into the entire room, locations of fans and proximity of employees to the work operation, the employer must include a safety factor.

(c) If an employee is relatively close to a source, particularly if he or she is located downwind, a safety factor of one hundred may be necessary.

(d) For other situations, a factor of ten may be acceptable. If the employer can demonstrate through such calculations that employee exposure does not exceed the action level or the STEL, the employer may use this information as objective data to demonstrate compliance with the standard.

##### (9) Sampling strategy.

(a) Once the employer determines that there is a possibility of substantial employee exposure to formaldehyde, the employer is obligated to measure employee exposure.

(b) The next step is selection of a maximum risk employee. When there are different processes where employees may be exposed to formaldehyde, a maximum risk employee should be selected for each work operation.

(c) Selection of the maximum risk employee requires professional judgment. The best procedure for selecting the maximum risk employee is to observe employees and select the person closest to the source of formaldehyde. Employee mobility may affect this selection; e.g., if the

closest employee is mobile in his tasks, he may not be the maximum risk employee. Air movement patterns and differences in work habits will also affect selection of the maximum risk employee.

(d) When many employees perform essentially the same task, a maximum risk employee cannot be selected. In this circumstance, it is necessary to resort to random sampling of the group of workers. The objective is to select a subgroup of adequate size so that there is a high probability that the random sample will contain at least one worker with high exposure if one exists. The number of persons in the group influences the number that need to be sampled to ensure that at least one individual from the highest ten percent exposure group is contained in the sample. For example, to have ninety percent confidence in the results, if the group size is ten, nine should be sampled; for fifty, only eighteen need to be sampled.

(e) If measurement shows exposure to formaldehyde at or above the action level or the STEL, the employer needs to identify all other employees who may be exposed at or above the action level or STEL and measure or otherwise accurately characterize the exposure of these employees.

(f) Whether representative monitoring or random sampling are conducted, the purpose remains the same to determine if the exposure of any employee is above the action level. If the exposure of the most exposed employee is less than the action level and the STEL, regardless of how the employee is identified, then it is reasonable to assume that measurements of exposure of the other employees in that operation would be below the action level and the STEL.

#### (10) Exposure measurements.

(a) There is no "best" measurement strategy for all situations. Some elements to consider in developing a strategy are:

- (i) Availability and cost of sampling equipment;
- (ii) Availability and cost of analytic facilities;
- (iii) Availability and cost of personnel to take samples;
- (iv) Location of employees and work operations;
- (v) Intraday and interday variations in the process;
- (vi) Precision and accuracy of sampling and analytic methods; and
- (vii) Number of samples needed.

(b) Samples taken for determining compliance with the STEL differ from those that measure the TWA concentration in important ways. STEL samples are best taken in a nonrandom fashion using all available knowledge relating to the area, the individual, and the process to obtain samples during periods of maximum expected concentrations. At least three measurements on a shift are generally needed to spot gross errors or mistakes; however, only the highest value represents the STEL.

(c) If an operation remains constant throughout the workshift, a much greater number of samples would need to be taken over the thirty-two discrete nonoverlapping periods in an 8-hour workshift to verify compliance with a STEL. If employee exposure is truly uniform throughout the workshift, however, an employer in compliance with the 1 ppm TWA would be in compliance with the 2 ppm STEL, and this determination can probably be made using objective data.

#### (11) Need to repeat the monitoring strategy.

(a) Interday and intraday fluctuations in employee exposure are mostly influenced by the physical processes that generate formaldehyde and the work habits of the employee. Hence, in-plant process variations influence the employer's determination of whether or not additional controls need to be imposed. Measurements that employee exposure is low on a day that is not representative of worst conditions may not provide sufficient information to determine whether or not additional engineering controls should be installed to achieve the PELs.

(b) The person responsible for conducting sampling must be aware of systematic changes which will negate the validity of the sampling results. Systematic changes in formaldehyde exposure concentration for an employee can occur due to:

- (i) The employee changing patterns of movement in the workplace;
- (ii) Closing of plant doors and windows;
- (iii) Changes in ventilation from season to season;
- (iv) Decreases in ventilation efficiency or abrupt failure of engineering control equipment; and
- (v) Changes in the production process or work habits of the employee.

(c) Any of these changes, if they may result in additional exposure that reaches the next level of action (i.e., 0.5 or 1.0 ppm as an 8-hour average or 2 ppm over fifteen minutes) require the employer to perform additional monitoring to reassess employee exposure.

(d) A number of methods are suitable for measuring employee exposure to formaldehyde or for characterizing emissions within the

worksite. The preamble to this standard describes some methods that have been widely used or subjected to validation testing. A detailed analytical procedure derived from the WISHA Method ALDE-1 for acrolein and formaldehyde is presented below for informational purposes.

(e) Inclusion of WISHA's method in this appendix in no way implies that it is the only acceptable way to measure employee exposure to formaldehyde. Other methods that are free from significant interferences and that can determine formaldehyde at the permissible exposure limits within  $\pm$  25 percent of the "true" value at the ninety-five percent confidence level are also acceptable. Where applicable, the method should also be capable of measuring formaldehyde at the action level to  $\pm$  35 percent of the "true" value with a ninety-five percent confidence level. WISHA encourages employers to choose methods that will be best for their individual needs. The employer must exercise caution, however, in choosing an appropriate method since some techniques suffer from interferences that are likely to be present in workplaces of certain industry sectors where formaldehyde is used.

#### (12) WISHA's analytical laboratory method.

Method No: ALDE-1.

Matrix: Air.

(a) Target concentration: 1 ppm (1.2 mg/m<sup>3</sup>).

(b) Procedures: Air samples are collected by drawing known volumes of air through sampling tubes containing XAD-2 adsorbent which have been coated with 2-(hydroxymethyl) piperidine. The samples are desorbed with toluene and then analyzed by gas chromatography using a nitrogen selective detector.

(c) Recommended sampling rate and air volumes: 0.1 L/min and 24 L.

(d) Reliable quantitation limit: 16 ppb (20 ug/m<sup>3</sup>).

(e) Standard error of estimate at the target concentration: 7.3%.

(f) Status of the method: A sampling and analytical method that has been subjected to the established evaluation procedures of the organic methods evaluation branch.

(13) Date: March, 1985.

(a) General discussion.

(i) Background: The current WISHA method for collecting acrolein vapor recommends the use of activated 13X molecular sieves. The samples must be stored in an ice bath during and after sampling and also they must be analyzed within forty-eight hours of collection. The current WISHA method for collecting formaldehyde vapor recommends the use of bubblers containing ten percent methanol in water as the trapping solution.

This work was undertaken to resolve the sample stability problems associated with acrolein and also to eliminate the need to use bubblers to sample formaldehyde. A goal of this work was to develop and/or to evaluate a common sampling and analytical procedure for acrolein and formaldehyde.

NIOSH has developed independent methodologies for acrolein and formaldehyde which recommend the use of reagent-coated adsorbent tubes to collect the aldehydes as stable derivatives. The formaldehyde sampling tubes contain Chromosorb 102 adsorbent coated with N-benzylethanolamine (BEA) which reacts with formaldehyde vapor to form a stable oxazolidine compound. The acrolein sampling tubes contain XAD-2 adsorbent coated with 2-(hydroxymethyl) ((2H)) piperidine (2-HMP) which reacts with acrolein vapor to form a different, stable oxazolidine derivative. Acrolein does not appear to react with BEA to give a suitable reaction product. Therefore, the formaldehyde procedure cannot provide a common method for both aldehydes. However, formaldehyde does react with 2-HMP to form a very suitable reaction product. It is the quantitative reaction of acrolein and formaldehyde with 2-HMP that provides the basis for this evaluation.

This sampling and analytical procedure is very similar to the method recommended by NIOSH for acrolein. Some changes in the NIOSH methodology were necessary to permit the simultaneous determination of both aldehydes and also to accommodate WISHA laboratory equipment and analytical techniques.

(ii) Limit-defining parameters: The analyte air concentrations reported in this method are based on the recommended air volume for each analyte collected separately and a desorption volume of 1 mL. The amounts are presented as acrolein and/or formaldehyde, even though the derivatives are the actual species analyzed.

(A) Detection limits of the analytical procedure: The detection limit of the analytical procedure was 386 pg per injection for formaldehyde. This was the amount of analyte which gave a peak whose height was

about five times the height of the peak given by the residual formaldehyde derivative in a typical blank front section of the recommended sampling tube.

(B) Detection limits of the overall procedure: The detection limits of the overall procedure were 482 ng per sample (16 ppb or 20 ug/m<sup>3</sup> for formaldehyde). This was the amount of analyte spiked on the sampling device which allowed recoveries approximately equal to the detection limit of the analytical procedure.

(C) Reliable quantitation limits: The reliable quantitation limit was 482 ng per sample (16 ppb or 20 ug/m<sup>3</sup>) for formaldehyde. These were the smallest amounts of analyte which could be quantitated within the limits of a recovery of at least seventy-five percent and a precision ( $\pm$  1.96 SD) of  $\pm$  25% or better.

The reliable quantitation limit and detection limits reported in the method are based upon optimization of the instrument for the smallest possible amount of analyte. When the target concentration of an analyte is exceptionally higher than these limits, they may not be attainable at the routine operating parameters.

(D) Sensitivity: The sensitivity of the analytical procedure over concentration ranges representing 0.4 to 2 times the target concentration, based on the recommended air volumes, was seven thousand five hundred eighty-nine area units per ug/mL for formaldehyde. This value was determined from the slope of the calibration curve. The sensitivity may vary with the particular instrument used in the analysis.

(E) Recovery: The recovery of formaldehyde from samples used in an eighteen-day storage test remained above ninety-two percent when the samples were stored at ambient temperature. These values were determined from regression lines which were calculated from the storage data. The recovery of the analyte from the collection device must be at least seventy-five percent following storage.

(F) Precision (analytical method only): The pooled coefficient of variation obtained from replicate determinations of analytical standards over the range of 0.4 to 2 times the target concentration was 0.0052 for formaldehyde ((d)(C)(iii) of this subsection).

(G) Precision (overall procedure): The precision at the ninety-five percent confidence level for the ambient temperature storage tests was  $\pm$  14.3% for formaldehyde. These values each include an additional  $\pm$  5% for sampling error. The overall procedure must provide results at the target concentrations that are  $\pm$  25% at the ninety-five percent confidence level.

(H) Reproducibility: Samples collected from controlled test atmospheres and a draft copy of this procedure were given to a chemist unassociated with this evaluation. The formaldehyde samples were analyzed following fifteen days storage. The average recovery was 96.3% and the standard deviation was 1.7%.

(iii) Advantages:

(A) The sampling and analytical procedures permit the simultaneous determination of acrolein and formaldehyde.

(B) Samples are stable following storage at ambient temperature for at least eighteen days.

(iv) Disadvantages: None.

(b) Sampling procedure.

(i) Apparatus:

(A) Samples are collected by use of a personal sampling pump that can be calibrated to within  $\pm$  5% of the recommended 0.1 L/min sampling rate with the sampling tube in line.

(B) Samples are collected with laboratory prepared sampling tubes. The sampling tube is constructed of silane treated glass and is about 8-cm long. The ID is 4 mm and the OD is 6 mm. One end of the tube is tapered so that a glass wool end plug will hold the contents of the tube in place during sampling. The other end of the sampling tube is open to its full 4-mm ID to facilitate packing of the tube. Both ends of the tube are fire-polished for safety. The tube is packed with a 75-mg backup section, located nearest the tapered end and a 150-mg sampling section of pretreated XAD-2 adsorbent which has been coated with 2-HMP. The two sections of coated adsorbent are separated and retained with small plugs of silanized glass wool. Following packing, the sampling tubes are sealed with two 7/32 inch OD plastic and caps. Instructions for the pretreatment and the coating of XAD-2 adsorbent are presented in (d) of this subsection.

(C) Sampling tubes, similar to those recommended in this method, are marketed by Supelco, Inc. These tubes were not available when this work was initiated; therefore, they were not evaluated.

(ii) Reagents: None required.

(iii) Technique:

(A) Properly label the sampling tube before sampling and then remove the plastic end caps.

(B) Attach the sampling tube to the pump using a section of flexible plastic tubing such that the large, front section of the sampling tube is exposed directly to the atmosphere. Do not place any tubing ahead of the sampling tube. The sampling tube should be attached in the worker's breathing zone in a vertical manner such that it does not impede work performance.

(C) After sampling for the appropriate time, remove the sampling tube from the pump and then seal the tube with plastic end caps.

(D) Include at least one blank for each sampling set. The blank should be handled in the same manner as the samples with the exception that air is not drawn through it.

(E) List any potential interferences on the sample data sheet.

(iv) Breakthrough:

(A) Breakthrough was defined as the relative amount of analyte found on a backup sample in relation to the total amount of analyte collected on the sampling train.

(B) For formaldehyde collected from test atmospheres containing six times the PEL, the average five percent breakthrough air volume was 41 L. The sampling rate was 0.1 L/min and the average mass of formaldehyde collected was 250 ug.

(v) Desorption efficiency: No desorption efficiency corrections are necessary to compute air sample results because analytical standards are prepared using coated adsorbent. Desorption efficiencies were determined, however, to investigate the recoveries of the analytes from the sampling device. The average recovery over the range of 0.4 to 2 times the target concentration, based on the recommended air volumes, was 96.2% for formaldehyde. Desorption efficiencies were essentially constant over the ranges studied.

(vi) Recommended air volume and sampling rate:

(A) The recommended air volume for formaldehyde is 24 L.

(B) The recommended sampling rate is 0.1 L/min.

(vii) Interferences:

(A) Any collected substance that is capable of reacting with 2-HMP and thereby depleting the derivatizing agent is a potential interference. Chemicals which contain a carbonyl group, such as acetone, may be capable of reacting with 2-HMP.

(b) There are no other known interferences to the sampling method.

(viii) Safety precautions:

(A) Attach the sampling equipment to the worker in such a manner that it will not interfere with work performance or safety.

(B) Follow all safety practices that apply to the work area being sampled.

(c) Analytical procedure.

(i) Apparatus:

(A) A gas chromatograph (GC), equipped with a nitrogen selective detector.

(B) A GC column capable of resolving the analytes from any interference. A 6 ft x 1/4 in OD (2mm ID) glass GC column containing 10% UCON 50-HB-5100 + 2% KOH on 80/100 mesh Chromosorb W-AW was used for the evaluation. Injections were performed on-column.

(C) Vials, glass 2-mL with Teflon-lined caps.

(D) Volumetric flasks, pipets, and syringes for preparing standards, making dilutions, and performing injections.

(ii) Reagents:

(A) Toluene and dimethylformamide. Burdick and Jackson solvents were used in this evaluation.

(B) Helium, hydrogen, and air, GC grade.

(C) Formaldehyde, thirty-seven percent by weight, in water. Aldrich Chemical, ACS Reagent Grade formaldehyde was used in this evaluation.

(D) Ambrilite XAD-2 adsorbent coated with 2-(hydroxymethyl) piperidine (2-HMP), 10% by weight ((d) of this subsection).

(E) Desorbing solution with internal standard. This solution was prepared by adding 20 uL of dimethylformamide to 100 mL of toluene.

(iii) Standard preparation:

(A) Formaldehyde: Prepare stock standards by diluting known volumes of thirty-seven percent formaldehyde solution with methanol. A procedure to determine the formaldehyde content of these standards is presented in (d) of this subsection. A standard containing 7.7 mg/mL formaldehyde was prepared by diluting 1 mL of the thirty-seven percent reagent to 50 mL with methanol.

(B) It is recommended that analytical standards be prepared about sixteen hours before the air samples are to be analyzed in order to ensure the complete reaction of the analytes with 2-HMP. However, rate studies have shown the reaction to be greater than ninety-five percent

complete after four hours. Therefore, one or two standards can be analyzed after this reduced time if sample results are outside the concentration range of the prepared standards.

(C) Place 150-mg portions of coated XAD-2 adsorbent, from the same lot number as used to collect the air samples, into each of several glass 2-mL vials. Seal each vial with a Teflon-lined cap.

(D) Prepare fresh analytical standards each day by injecting appropriate amounts of the diluted analyte directly onto 150-mg portions of coated adsorbent. It is permissible to inject both acrolein and formaldehyde on the same adsorbent portion. Allow the standards to stand at room temperature. A standard, approximately the target levels, was prepared by injecting 11  $\mu$ L of the acrolein and 12  $\mu$ L of the formaldehyde stock standards onto a single coated XAD-2 adsorbent portion.

(E) Prepare a sufficient number of standards to generate the calibration curves. Analytical standard concentrations should bracket sample concentrations. Thus, if samples are not in the concentration range of the prepared standards, additional standards must be prepared to determine detector response.

(F) Desorb the standards in the same manner as the samples following the sixteen-hour reaction time.

(iv) Sample preparation:

(A) Transfer the 150-mg section of the sampling tube to a 2-mL vial. Place the 75-mg section in a separate vial. If the glass wool plugs contain a significant number of adsorbent beads, place them with the appropriate sampling tube section. Discard the glass wool plugs if they do not contain a significant number of adsorbent beads.

(B) Add 1 mL of desorbing solution to each vial.

(C) Seal the vials with Teflon-lined caps and then allow them to desorb for one hour. Shake the vials by hand with vigorous force several times during the desorption time.

(D) Save the used sampling tubes to be cleaned and recycled.

(v) Analysis:

(A) GC conditions.

Column temperature:

Bi-level temperature program.

First level: 100°C to 140°C at 4°C/min following completion of the first level.

Second level: 140°C to 180°C at 20°C/min following completion of the first level.

Isothermal period: Hold column at 180°C until the recorder pen returns to baseline (usually about twenty-five minutes after injection).

Injector temperature: 180°C.

Helium flow rate: 30 mL/min (detector response will be reduced if nitrogen is substituted for helium carrier gas).

Injection volume: 51.08  $\mu$ L.

GC column: Six-ft x 1/4-in OD (2 mm ID) glass GC column containing 10% UCON 50-HB-5100NZG651+512% KOH on 80/100 Chromosorb W-AW.

NPD conditions:

Hydrogen flow rate: 3 mL/min.

Air flow rate: 50 mL/min.

Detector temperature: 275 5151C.

(B) Use a suitable method, such as electronic integration, to measure detector response.

(C) Use an internal standard method to prepare the calibration curve with several standard solutions of different concentrations. Prepare the calibration curve daily. Program the integrator to report results in ug/mL.

(D) Bracket sample concentrations with standards.

(vi) Interferences (analytical).

(A) Any compound with the same general retention time as the analytes and which also gives a detector response is a potential interference. Possible interferences should be reported to the laboratory with submitted samples by the industrial hygienist.

(B) GC parameters (temperature, column, etc.), may be changed to circumvent interferences.

(C) A useful means of structure designation is GC/MS. It is recommended this procedure be used to confirm samples whenever possible.

(D) The coated adsorbent usually contains a very small amount of residual formaldehyde derivative.

(vii) Calculations:

(A) Results are obtained by use of calibration curves. Calibration curves are prepared by plotting detector response against concentration for each standard. The best line through the data points is determined by curve fitting.

(B) The concentration, in ug/mL, for a particular sample is determined by comparing its detector response to the calibration curve. If either of the analytes is found on the backup section, it is added to the amount found on the front section. Blank corrections should be performed before adding the results together.

(C) The acrolein and/or formaldehyde air concentration can be expressed using the following equation:

$$\text{Mg/m3} = (\text{A})(\text{B})/\text{C}$$

where A=ug/mL from 3.7.2, B=desorption volume, and C=L of air sampled.

No desorption efficiency corrections are required.

(D) The following equation can be used to convert results in mg/m3 to ppm.

$$\text{ppm} = (\text{mg/m3})(24.45)/\text{MW}$$

where mg/m3=result from 3.7.3, 24.25=molar volume of an ideal gas at 760 mm Hg and 25 5151C, MW=molecular weight (Formaldehyde=30.0).

(d) Backup data.

(i) Backup data on detection limits, reliable quantitation limits, sensitivity and precision of the analytical method, breakthrough, desorption efficiency, storage, reproducibility, and generation of test atmospheres are available in OSHA Method 52, developed by the Organics Methods Evaluation Branch, OSHA Analytical Laboratory, Salt Lake City, Utah.

(ii) Procedure to coat XAD-2 adsorbent with 2-HMP:

(A) Apparatus: Soxhlet extraction apparatus, rotary evaporation apparatus, vacuum dessicator, 1-L vacuum flask, 1-L round-bottomed evaporative flask, 1-L Erlenmeyer flask, 250-mL Buchner funnel with a coarse fritted disc, etc.

(B) Reagents:

(I) Methanol, isoctane, and toluene.

(II) (Hydroxymethyl) piperidine.

(III) Amberlite XAD-2 nonionic polymeric adsorbent, twenty to sixty mesh, Aldrich Chemical XAD-2 was used in this evaluation.

(C) Procedure: Weigh 125 g of crude XAD-2 adsorbent into a 1-L Erlenmeyer flask. Add about 200 mL of water to the flask and then swirl the mixture to wash the adsorbent. Discard any adsorbent that floats to the top of the water and then filter the mixture using a fritted Buchner funnel. Air dry the adsorbent for two minutes. Transfer the adsorbent back to the Erlenmeyer flask and then add about 200 mL of methanol to the flask. Swirl and then filter the mixture as before. Transfer the washed adsorbent back to the Erlenmeyer flask and then add about 200 mL of methanol to the flask. Swirl and then filter the mixture as before. Transfer the washed adsorbent to a 1-L round-bottomed evaporative flask, add 13 g of 2-HMP and then 200 mL of methanol, swirl the mixture and then allow it to stand for one hour. Remove the methanol at about 40°C and reduced pressure using a rotary evaporation apparatus. Transfer the coated adsorbent to a suitable container and store it in a vacuum desiccator at room temperature overnight. Transfer the coated adsorbent to a Soxhlet extractor and then extract the material with toluene for about twenty-four hours. Discard the contaminated toluene, add methanol in its place and then continue the Soxhlet extraction for an additional four hours. Transfer the adsorbent to a weighted 1-L round-bottom evaporative flask and remove the methanol using the rotary evaporation apparatus. Determine the weight of the adsorbent and then add an amount of 2-HMP, which is ten percent by weight of the adsorbent. Add 200 mL of methanol and then swirl the mixture. Allow the mixture to stand for one hour. Remove the methanol by rotary evaporation. Transfer the coated adsorbent to a suitable container and store it in a vacuum desiccator until all traces of solvents are gone. Typically, this will take two to three days. The coated adsorbent should be protected from contamination. XAD-2 adsorbent treated in this manner will probably not contain residual acrolein derivative. However, this adsorbent will often contain residual formaldehyde derivative levels of about 0.1 ug per 150 mg of adsorbent. If the blank values for a batch of coated adsorbent are too high, then the batch should be returned to the Soxhlet extractor, extracted with toluene again and then recoated. This process can be repeated until the desired blank levels are attained.

The coated adsorbent is now ready to be packed into sampling tubes. The sampling tubes should be stored in a sealed container to prevent contamination. Sampling tubes should be stored in the dark at room temperature. The sampling tubes should be segregated by coated adsorbent lot number. A sufficient amount of each lot number of coated adsorbent should be retained to prepare analytical standards for use with air samples from that lot number.

(iii) A procedure to determine formaldehyde by acid titration: Standardize the 0.1 N HCl solution using sodium carbonate and methyl orange indicator.

Place 50 mL of 0.1 M sodium sulfite and three drops of thymophthalein indicator into a 250-mL Erlenmeyer flask. Titrate the contents of the flask to a colorless endpoint with 0.1 N HCl (usually one or two drops is sufficient). Transfer 10 mL of the formaldehyde/methanol solution ((b)(iii)(A) of this subsection) into the same flask and titrate the mixture with 0.1 N HCl, again, to a colorless endpoint. The formaldehyde concentration of the standard may be calculated by the following equation:

$$\text{Formaldehyde, mg/mL} = \frac{\text{acid titer} \times \text{acid normality} \times 30.0}{\text{mL of Sample}}$$

This method is based on the quantitative liberation of sodium hydroxide when formaldehyde reacts with sodium sulfite to form the formaldehyde-bisulfite addition product. The volume of sample may be varied depending on the formaldehyde content but the solution to be titrated must contain excess sodium sulfite. Formaldehyde solutions containing substantial amounts of acid or base must be neutralized before analysis.

#### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07703 DEFINITIONS.** For the purpose of WAC 296-62-077 through 296-62-07753:

(1) "Action level" means an airborne concentration of asbestos of 0.1 fiber per cubic centimeter (f/cc) of air calculated as an eight-hour time-weighted average.

(2) "Air lock" means a system for ingress or egress to minimize air movement between a contaminated area and an uncontaminated area, consisting of an enclosure with two curtained doorways at least six feet apart unless space prohibits.

(3) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.

(4) "Authorized person" means any person authorized by the employer and required by work duties to be present in regulated areas.

(5) "Clean room" means an uncontaminated room having facilities for the storage of employees' street clothing and uncontaminated materials and equipment.

(6) "Competent person" means one who is capable of identifying existing asbestos hazards in the workplace and who has the authority to take prompt corrective measures to eliminate them, as specified in WAC 296-155-012(4). The duties of the competent person include at least the following: Establishing the negative-pressure enclosure, ensuring its integrity, and controlling entry to and exit from the enclosure; supervising any employee exposure monitoring required by the standard; ensuring that all employees working within such an enclosure wear the appropriate personal protective equipment, are trained in the use of appropriate methods of exposure control, and use the hygiene facilities and decontamination procedures specified in the standard; and ensuring that engineering controls in use are in proper operating condition and are functioning properly. To be designated as a competent person, the worker must satisfactorily complete a training course in accordance with WAC 296-62-07712(3).

(7) "Curtained doorway" means overlapping plastic sheeting curtains, at least four mils in thickness, constructed and used at entrance and exit of regulated areas, and designed to restrict the movement of air from one area to another.

(8) "Decontamination area" means an enclosed area adjacent and connected to the regulated area and consisting of an equipment room, shower area, and clean room, which is used for the decontamination of workers, materials, and equipment contaminated with asbestos.

(9) "Demolition" means the wrecking or taking out of any load-supporting structural member and any related razing, removing, or stripping of asbestos products.

(10) "Department" means the department of labor and industries.

(11) "Director" means the director of the department of labor and industries or his/her authorized representatives.

(12) "Employee exposure" means that exposure to airborne asbestos that would occur if the employee were not using respiratory protective equipment.

(13) "Equipment room" means a contaminated room located within the decontamination area that is supplied with impermeable bags or

containers for the disposal of contaminated protective clothing and equipment.

(14) "Fiber" means a particulate form of asbestos, five micrometers or longer, with a length-to-diameter ratio of at least three to one.

(15) "High-efficiency particulate air (HEPA) filter" means a filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.

(16) "Regulated area" means an area established by the employer to demarcate areas where airborne concentrations of asbestos exceed, or can reasonably be expected to exceed, the permissible exposure limits. The regulated area may take the form of (a) a temporary enclosure, as required by WAC 296-62-07711, or (b) an area demarcated in any manner that minimizes the number of employees exposed to asbestos.

(17) "Removal" means the taking out or stripping of asbestos or materials containing asbestos.

(18) "Renovation" means the modifying of any existing structure, or portion thereof, where exposure to airborne asbestos may result.

(19) "Repair" means overhauling, rebuilding, reconstructing, or reconditioning of structure or substrates where asbestos is present.

(20) "Small-scale, short duration operations" means tasks involving less than ten linear feet and less than eleven square feet of material. This means a total of eleven square feet of material whether on flat surfaces or not and includes pipes. Regardless of pipe diameter, runs cannot exceed ten linear feet.

(21) "Structural member" means any load-supporting or nonload-supporting member of a facility such as beams, walls, and ceilings.

#### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07705 PERMISSIBLE EXPOSURE LIMITS (PEL).** (1) Time weighted average (TWA): The employer shall ensure that no employee is exposed to an airborne concentration of asbestos in excess of 0.2 fiber per cubic centimeter (0.2 f/cc) of air as an eight-hour time-weighted average (TWA) as determined by the method prescribed in WAC 296-62-07735, Appendix A, or by an equivalent method recognized by the department.

(2) ((Ceiling concentration. No employee shall be exposed at any time to airborne concentrations of asbestos in excess of 1.0 fiber per cubic centimeter (1.0 f/cc) of air during any fifteen minute period, as determined by the methods prescribed in WAC 296-62-07735, Appendix A, or by an equivalent method recognized by the department.)) Excursion limit. The employer shall ensure that no employee is exposed to an airborne concentration of asbestos in excess of 1.0 fiber per cubic centimeter of air (1 f/cc) as averaged over a sampling period of fifteen minutes.

#### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07709 EXPOSURE MONITORING.** (1) General.

(a) Each employer shall perform monitoring to determine accurately the airborne concentrations of asbestos to which employees may be exposed.

(b) Determinations of employee exposure shall be made from breathing zone air samples that are representative of the eight-hour TWA ((of each employee and of the ceiling concentrations)) and fifteen minute short-term exposures of each employee.

(c) Representative eight-hour TWA employee exposures shall be determined on the basis of one or more samples representing full-shift exposures for each shift for each employee in each job classification in each work area.

(d) ((Representative employee ceiling exposure shall be determined on the basis of one or more samples representing the highest exposure for employees in each work area. Sampling periods for ceiling concentration evaluations shall not exceed fifteen minutes.)) Representative fifteen minute short term employee exposures shall be determined on the basis of one or more samples representing fifteen minute exposures associated with operations that are most likely to produce exposures above the excursion limit for each shift for each job classification in each work area.

(e) Prior to the start of the removal, demolition, or renovation project, representative area monitoring shall be conducted for later use (see WAC 296-62-07713 (2)(c)).

(2) Initial monitoring.

(a) Each employer who has a workplace or work operation covered by this standard, except as provided for in (b) and (c) of this subsection, shall perform initial monitoring of employees who are, or may reasonably be expected to be exposed to airborne concentrations at or above the action level and/or excursion limit. The initial monitoring shall be at the initiation of each asbestos job to accurately determine the airborne concentration of asbestos to which employees may be exposed.

(b) Where the employer or his/her representative has monitored after December 20, 1985, the monitoring satisfies all other requirements of this section, and the monitoring data was obtained during work operations conducted ((at the same workplace and)) under workplace conditions closely resembling the processes, type of material including percentage of asbestos, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations, the employer may rely on such earlier monitoring results to satisfy the requirements of (a) of this subsection, except for employees engaged in removal, demolition, or renovation operations using negative-pressure enclosures as required by WAC 296-62-07712. ((The employer may rely on such earlier monitoring results to satisfy the requirements of (a) of this subsection.))

(c) Where the employer has relied upon objective data that demonstrates that asbestos is not capable of being released in airborne concentrations at or above the action level and/or excursion limit under those work conditions of processing, use, or handling expected to have the greatest potential for releasing asbestos, then no initial monitoring is required.

(3) Monitoring frequency (periodic monitoring) and patterns. After the initial determinations required by subsection (2)(a) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees.

(a) In no case shall sampling be at intervals greater than six months for employees whose exposures may reasonably be foreseen to exceed the action level and/or excursion limit.

(b) Daily monitoring within regulated areas: The employer shall conduct daily monitoring that is representative of the exposure of each employee who is assigned to work within a regulated area. Exception: When all employees within a regulated area are equipped with full facepiece supplied-air respirators operated in the pressure-demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter, the employer may dispense with the daily monitoring required by this subsection.

(c) Monitoring outside negative-pressure enclosures: The employer shall conduct representative area monitoring of the airborne fiber levels at least every other day at the HEPA machine exhaust and entrance to the decontamination area.

(4) Changes in monitoring frequency. If either the initial or the periodic monitoring required by subsections (2) and (3) of this section statistically indicates that employee exposures are below the action level and/or excursion limit, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(5) Additional monitoring. Notwithstanding the provisions of subsections (2)(b) and (4) of this section, the employer shall institute the exposure monitoring required under subsections (2)(a) and (3) of this section whenever there has been a change in the production, process, control equipment, personnel, or work practices that may result in new or additional exposures above the action level and/or excursion limit, or when the employer has any reason to suspect that a change may result in new or additional exposures above the action level and/or excursion limit.

#### (6) Method of monitoring.

(a) All samples taken to satisfy the monitoring requirements of this section shall be personal samples collected following the procedures specified in WAC 296-62-07735, Appendix A.

(b) Monitoring shall be performed by persons having a thorough understanding of monitoring principles and procedures and who can demonstrate proficiency in sampling techniques.

(c) All samples taken to satisfy the monitoring requirements of this section shall be evaluated using the WISHA reference method specified in WAC 296-62-07735, Appendix A, or an equivalent counting method recognized by the department.

(d) If an equivalent method to the WISHA reference method is used, the employer shall ensure that the method meets the following criteria:

(i) Replicate exposure data used to establish equivalency are collected in side-by-side field and laboratory comparisons;

(ii) The comparison indicates that ninety percent of the samples collected in the range 0.1 to 0.4 f/cc have an accuracy range of plus or minus twenty-five percent of the WISHA reference method results with a ninety-five percent confidence level as demonstrated by a statistically valid protocol; and

(iii) The equivalent method is documented and the results of the comparison testing are maintained.

(e) To satisfy the monitoring requirements of this section, employers must use the results of monitoring analysis performed by laboratories which have instituted quality assurance programs that include the elements as prescribed in WAC 296-62-07735, Appendix A.

#### (7) Employee notification of monitoring results.

(a) The employer shall, as soon as possible but no later than fifteen working days after the receipt of the results of any monitoring performed under the standard, notify the affected employees of these results in writing either individually or by posting of results in an appropriate location that is accessible to affected employees.

(b) The written notification required by (a) of this subsection shall contain the corrective action being taken by the employer to reduce employee exposure to or below the ((PEL)) permissible exposure limits, wherever monitoring results indicated that the ((PEL had)) permissible exposure limits have been exceeded.

#### (8) Observation of monitoring.

(a) The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to asbestos conducted in accordance with this section.

(b) When observation of the monitoring of employee exposure to asbestos requires entry into an area where the use of protective clothing or equipment is required, the observer shall be provided with and be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07711 REGULATED AREAS.** (1) General. The employer shall establish a regulated area in work areas where airborne concentrations of asbestos exceed or can reasonably be expected to exceed the permissible exposure limits prescribed in WAC 296-62-07705.

(2) Demarcation. The regulated area shall be demarcated in any manner that minimizes the number of persons within the area and protects persons outside the area from exposure to airborne concentrations of asbestos in excess of the permissible exposure limits.

(3) Access. Access to regulated areas shall be limited to authorized persons or to persons authorized by the Washington Industrial Safety and Health Act or regulations issued pursuant thereto.

(4) Provision of respirators. Each person entering a regulated area shall be supplied with and required to use a respirator, selected in accordance with WAC 296-62-07715.

(5) Protective clothing. All persons entering a regulated area shall be supplied with and required to wear protective clothing, selected in accordance with WAC 296-62-07717.

(6) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in the regulated areas.

(7) Confined space. The employer shall determine if a confined space hazard exists and shall take any necessary precautions in accordance with chapter 296-62 WAC.

### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07712 REQUIREMENTS FOR ASBESTOS REMOVAL, DEMOLITION, AND RENOVATION OPERATIONS.**

(1) Except when proper glove bag techniques are used as described in Appendix J WAC 296-62-07753, the employer, wherever feasible, shall establish negative-pressure enclosures having a minimum of one air exchange every fifteen minutes within the enclosure before commencing removal, demolition, and renovation operations. A sufficient amount of air shall be exhausted to create a pressure of -0.02 inches of water within the enclosure with respect to the area outside the enclosure.

(2) The employer shall designate a competent person ((to perform or)) who shall perform, or directly supervise the following duties:

(a) Set up the enclosure;

(b) Ensure the integrity of the enclosure;

(c) Control entry to and exit from the enclosure;

(d) Supervise all employee exposure monitoring required by this section;

(e) Ensure that employees working within the enclosure wear protective clothing and respirators as required by WAC 296-62-07715 and 296-62-07717;

(f) Ensure that employees are trained in the use of engineering controls, work practices, and personal protective equipment;

(g) Ensure that employees use the hygiene facilities and observe the decontamination procedures specified in WAC 296-62-07719; and

(h) Ensure that engineering controls including HEPA filters are functioning properly.

(3) In addition to the qualifications specified in WAC 296-62-07703, the competent person shall be trained in all aspects of asbestos abatement, the contents of this standard, the identification of asbestos and their removal procedures, and other practices for reducing the hazard. Such training shall be obtained in a comprehensive course conducted by an EPA asbestos training center, or an equivalent training course recognized by the department as complying with the requirements of this subsection. Every competent person shall also maintain a valid asbestos worker certificate as specified in WAC 296-65-010.

(4) Exception: For small-scale, short-duration operations, such as pipe repair, valve replacement, installing electrical conduits, installing or removing drywall, roofing, and other general building maintenance or renovation, the employer is not required to comply with the requirements of WAC 296-62-07712. Employers wishing to take advantage of the exemption in this subsection shall comply with WAC 296-62-07753, Appendix J.

#### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

#### WAC 296-62-07713 METHODS OF COMPLIANCE. (1) Engineering controls and work practices.

(a) The employer shall institute engineering controls and work practices to reduce and maintain employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705, except to the extent that such controls are not feasible. Engineering controls and work practices include but are not limited to the following:

(i) Local exhaust ventilation equipped with HEPA filter dust collection systems;

(ii) Vacuum cleaners equipped with HEPA filters;

(iii) Enclosure or isolation of processes producing asbestos dust;

(iv) Use of wet methods, wetting agents, or removal encapsulants to control employee exposures during asbestos handling, mixing, removal, cutting, application, and cleanup;

(v) Prompt disposal of wastes contaminated with asbestos in leak-tight containers; or

(vi) Use of work practices or other engineering controls that the director can show to be feasible.

(b) Wherever the feasible engineering controls and work practices that can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of WAC 296-62-07715.

(c) For the following operations, wherever feasible engineering controls and work practices that can be instituted are not sufficient to reduce the employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705, the employer shall use them to reduce employee exposure to or below 0.5 fiber per cubic centimeter of air (as an eight-hour time-weighted average) and shall supplement them by the use of any combination of respiratory protection that complies with the requirements of WAC 296-62-07715, work practices and feasible engineering controls that will reduce employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705: Coupling cutoff in primary asbestos cement pipe manufacturing; sanding in primary and secondary asbestos cement sheet manufacturing; grinding in primary and secondary friction product manufacturing; carding and spinning in dry textile processes; and grinding and sanding in primary plastics manufacturing.

(d) Local exhaust ventilation. Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with good practices such as those found in the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2-1979.

(e) Particular tools. All hand-operated and power-operated tools which would produce or release fibers of asbestos so as to expose employees to levels in excess of the exposure limits prescribed in WAC 296-62-07705, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems which comply with (d) of this subsection. High-speed abrasive disc saws that are not equipped with appropriate engineering controls shall not be used for work related to asbestos.

(f) Wet methods. ((~~Insofar as practicable,~~)) Asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet saturated state ((~~sufficient~~)) to prevent the emission of airborne fibers ((~~so as to expose employees to levels in excess of the exposure limit prescribed in WAC 296-62-07705,~~)) unless the usefulness of the product would be diminished thereby.

(g) Materials containing asbestos shall not be applied by spray methods unless the materials contain less than 0.1% asbestos by weight, the asbestos is a natural contaminant and objective data indicate employee exposure will not exceed the action level of 0.1 f/cc.

(h) Particular products and operations. No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, enclosed, or ventilated so as to prevent effectively the release of airborne fibers of asbestos so as to expose employees to levels in excess of the permissible exposure limits prescribed in WAC 296-62-07705.

(i) Compressed air. Compressed air shall not be used to remove asbestos or materials containing asbestos unless the compressed air is used in conjunction with an enclosed ventilation system designed to capture the dust cloud created by the compressed air.

#### (2) Clean-up.

(a) After completion of asbestos removal, demolition, and renovation operations, all surfaces in and around the work area shall be cleared of any asbestos debris.

(b) Lock-down. Where asbestos has been removed, encapsulant shall be applied to ensure binding of remaining fibers.

(c) The employer shall demonstrate by monitoring that the airborne fiber concentration is below the action level; or, at or below the airborne fiber level existing prior to the start of the removal, demolition, or renovation project; whichever level is lower.

#### (3) Compliance program.

(a) Where ((~~the PEL~~)) either the time weighted average and/or excursion limit is exceeded, the employer shall establish and implement a written program to reduce employee exposure to or below the permissible exposure limits by means of engineering and work practice controls as required by subsection (1) of this section, and by the use of respiratory protection where required or permitted under this section.

(b) Such programs shall be reviewed and updated as necessary to reflect significant changes in the status of the employer's compliance program.

(c) Written programs shall be submitted upon request for examination and copying to the director, affected employees and designated employee representatives.

(d) The employer shall not use employee rotation as a means of compliance with the ((~~PEL~~)) permissible exposure limits specified in WAC 296-62-07705.

#### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

#### WAC 296-62-07715 RESPIRATORY PROTECTION. (1) General. The employer shall provide respirators, and ensure that they are used, where required by WAC 296-62-077 through 296-62-07753. Respirators shall be used in the following circumstances:

(a) During the interval necessary to install or implement feasible engineering and work practice controls;

(b) In work operations, such as maintenance and repair activities, or other activities for which engineering and work practice controls are not feasible;

(c) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits;

(d) In emergencies;

(e) In all regulated areas; and

(f) Whenever employee exposure exceeds the ((~~PEL~~)) permissible exposure limits.

#### (2) Respirator selection.

(a) Where respirators are required under this section, the employer shall select and provide at no cost to the employee, the appropriate

respirator as specified in Table 1 of this section and shall ensure that the employee uses the respirator provided. The employer shall select respirators from among those approved as being acceptable for protection by the Mine Safety and Health Administration (MSHA) or by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(b) The employer shall provide a powered, air-purifying respirator in lieu of any negative pressure respirator specified in Table 1 of this section whenever:

- (i) An employee chooses to use this type of respirator; and
- (ii) This respirator will provide adequate protection to the employee.

TABLE 1—RESPIRATORY PROTECTION FOR ASBESTOS FIBERS

| Concentration of asbestos fibers                | Required Respirator <sup>a</sup>   |
|---|--|
| Not in excess of 2 f/cc.                        | 1. Half-mask, air-purifying respirator, other than a disposable respirator, equipped with high-efficiency filters.   |
| Not in excess of 10 f/cc.                       | 1. Full facepiece air-purifying respirator equipped with high-efficiency filters.  |
| Not in excess of 20 f/cc.                       | 1. Any powered air-purifying respirator equipped with high-efficiency filters.<br>2. Any supplied-air respirator operated in continuous flow mode.   |
| Not in excess of 200 f/cc.                      | 1. Full facepiece supplied-air respirator operated in pressure demand mode.  |
| Greater than 200 f/cc or unknown concentration. | 1. Full facepiece supplied-air respirator operated in pressure-demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter. <sup>c</sup><br>2. Full facepiece positive-pressure self-contained breathing apparatus (SCBA). |

- Note: a. Respirators assigned for higher environmental concentrations may be used at lower concentrations.  
b. A high-efficiency filter means a filter that is capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.  
c. See subsection (5)(c) of this section for fit testing requirements.

(3) Special respiratory protection requirements. Unless specifically identified in this subsection, respirator selection for asbestos removal, demolition, and renovation operations shall be in accordance with Table 1 of subsection (2) of this section. The employer shall provide and require to be worn, at no cost to the employee, a full facepiece supplied-air respirator operated in the pressure demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter to employees engaged in the following asbestos operations:

(a) Inside negative pressure enclosures used for removal, demolition, and renovation of friable asbestos from walls, ceilings, vessels, ventilation ducts, elevator shafts, and other structural members, but does not include pipes or piping systems; or

(b) Any dry removal of asbestos.

(4) Respirator program.

(a) Where respiratory protection is required, the employer shall institute a respirator program in accordance with WAC 296-62-071.

(b) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(c) Employees who wear respirators shall be permitted to leave work areas to wash their faces and respirator facepieces whenever necessary to prevent skin irritation associated with respirator use.

(d) No employee shall be assigned to tasks requiring the use of respirators if, based upon his or her most recent examination, an examining physician determines that the employee will be unable to function

normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by the use of a respirator. Such employee shall be assigned to another job or given the opportunity to transfer to a different position whose duties he or she is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay the employee had just prior to such transfer, if such a different position is available.

(5) Respirator fit testing.

(a) The employer shall ensure that the respirator issued to the employee exhibits the least possible facepiece leakage and that the respirator is fitted properly.

(b) For each employee wearing negative pressure respirators, employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter. The qualitative fit tests may be used only for testing the fit of half-mask respirators to be worn in concentrations of asbestos not in excess of 2 f/cc, and shall be conducted in accordance with WAC 296-62-07739, Appendix C. The tests shall be used to select facepieces that provide the required protection as prescribed in Table 1 of this section.

(c) Any supplied-air respirator facepiece equipped with a back-up HEPA filter shall be quantitatively fit tested with the air supply disconnected at the time of initial fitting and at least every six months thereafter. The quantitative fit tests shall be conducted using the procedures described in WAC 296-62-07739(2), Appendix C, for negative pressure respirators.

**AMENDATORY SECTION** (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07717 PROTECTIVE WORK CLOTHING AND EQUIPMENT.** (1) Provision and use. If an employee is exposed to asbestos above the ((PEL)) permissible exposure limits, or where the possibility of eye irritation exists, the employer shall provide at no cost to the employee and ensure that the employee uses appropriate protective work clothing and equipment such as, but not limited to:

- (a) Coveralls or similar full-body work clothing;
- (b) Gloves, head coverings, and foot coverings; and
- (c) Face shields, vented goggles, or other appropriate protective equipment which complies with WAC 296-24-07801.

(2) Removal and storage.

(a) The employer shall ensure that employees remove work clothing contaminated with asbestos only in change rooms provided in accordance with WAC 296-62-07719(1).

(b) The employer shall ensure that no employee takes contaminated work clothing out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(c) Contaminated work clothing shall be placed and stored in closed containers which prevent dispersion of the asbestos outside the container.

(d) Containers of contaminated protective devices or work clothing which are to be taken out of change rooms or the workplace for cleaning, maintenance, or disposal, shall bear labels in accordance with WAC 296-62-07721(2).

(3) Cleaning and replacement.

(a) The employer shall clean, launder, repair, or replace protective clothing and equipment required by this paragraph to maintain their effectiveness. The employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(b) The employer shall prohibit the removal of asbestos from protective clothing and equipment by blowing or shaking.

(c) Laundering of contaminated clothing shall be done so as to prevent the release of airborne fibers of asbestos in excess of the permissible exposure limits prescribed in WAC 296-62-07705.

(d) Any employer who gives contaminated clothing to another person for laundering shall inform such person of the requirement in (c) of this subsection to effectively prevent the release of airborne fibers of asbestos in excess of the permissible exposure limits.

(e) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with asbestos of the potentially harmful effects of exposure to asbestos.

(f) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with WAC 296-62-07721.

(4) Protective clothing for removal, demolition, and renovation operations.

(a) The competent person shall periodically examine worksuits worn by employees for rips or tears that may occur during performance of work.

(b) When rips or tears are detected while an employee is working within a negative-pressure enclosure, rips and tears shall be immediately mended, or the worksuit shall be immediately replaced.

**AMENDATORY SECTION** (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07719 HYGIENE FACILITIES AND PRACTICES.** (1) Change rooms.

(a) The employer shall provide clean change rooms for employees required to work in regulated areas or required by WAC 296-62-07717(1) to wear protective clothing.

**Exception:** In lieu of the change area requirement specified in this subsection, the employer may permit employees in small-scale, short-duration operations, as described in WAC 296-62-07712(4), to clean their protective clothing with a portable HEPA-equipped vacuum before such employees leave the area where maintenance was performed.

(b) The employer shall ensure that change rooms are in accordance with WAC 296-24-120, and are equipped with two separate lockers or storage facilities, so separated as to prevent contamination of the employee's street clothes from his/her protective work clothing and equipment.

(2) Showers.

(a) The employer shall ensure that employees who work in negative pressure enclosures required by WAC 296-62-07712, or who work in areas where their airborne exposure is above the permissible exposure limits prescribed in WAC 296-62-07705, shower at the end of the work shift.

(b) The employer shall provide shower facilities which comply with WAC 296-24-12009(3).

(c) The employer shall ensure that employees who are required to shower pursuant to (a) of this subsection do not leave the workplace wearing any clothing or equipment worn during the work shift.

(3) Special requirements for removal, demolition, and renovation operations.

(a) Decontamination area. Except for small-scale, short-duration operations, as described in WAC 296-62-07753 Appendix J, the employer shall establish a decontamination area that is adjacent and connected to the regulated area for the decontamination of employees contaminated with asbestos. The decontamination area shall consist of an equipment room, shower area, and clean room in series. The employer shall ensure that employees enter and exit the regulated area through the decontamination area.

(b) Clean room. The clean room shall be equipped with a locker or appropriate storage container for each employee's use.

(c) Shower area. Where feasible, shower facilities shall be provided which comply with WAC 296-24-12009(3). The showers shall be contiguous both to the equipment room and the clean change room, unless the employer can demonstrate that this location is not feasible. Where the employer can demonstrate that it is not feasible to locate the shower between the equipment room and the clean change room, the employer shall ensure that employees:

(i) Remove asbestos contamination from their worksuits using a HEPA vacuum before proceeding to a shower that is not contiguous to the work area; or

(ii) Remove their contaminated worksuits, don clean worksuits, and proceed to a shower that is not contiguous to the work area.

(d) Equipment room. The equipment room shall be supplied with impermeable, labeled bags and containers for the containment and disposal of contaminated protective clothing and equipment.

(e) Decontamination area entry procedures.

(i) The employer shall ensure that employees:

(A) Enter the decontamination area through the clean room;

(B) Remove and deposit street clothing within a locker provided for their use; and

(C) Put on protective clothing and respiratory protection before leaving the clean room.

(ii) Before entering the enclosure, the employer shall ensure that employees pass through the equipment room.

(f) Decontamination area exit procedures.

(i) Before leaving the regulated area, the employer shall ensure that employees remove all gross contamination and debris from their protective clothing.

(ii) The employer shall ensure that employees remove their protective clothing in the equipment room and deposit the clothing in labeled impermeable bags or containers.

(iii) The employer shall ensure that employees do not remove their respirators in the equipment room.

(iv) The employer shall ensure that employees shower prior to entering the clean room. When taking a shower, employees shall be fully wetted, including the face and hair, prior to removing their respirators.

(v) The employer shall ensure that, after showering, employees enter the clean room before changing into street clothes.

(g) Decontamination area for personnel shall not be used for the transportation of asbestos debris.

(h) Waste load-out procedure. The waste load-out area as required by WAC 296-62-07723(7) shall be used as an area for final preparation and external decontamination of waste containers, as a short term storage area for bagged waste, and as a port for transporting waste.

The employer shall ensure waste containers be free of all gross contaminated material before removal from the negative-pressure enclosure. Gross contamination shall be wiped, scraped off, or washed off containers before they are placed into a two chamber air lock which is adjacent to the negative-pressure enclosure. In the first chamber, the exterior of the waste container shall be decontaminated or placed within a second waste container, and then it shall be moved into the second chamber of the air lock for temporary storage or transferred outside of the regulated area. The second waste container shall not be reused unless thoroughly decontaminated.

(4) Lunchrooms.

(a) The employer shall provide lunchroom facilities for employees who work in areas where their airborne exposure is above the ((permissible exposure)) time weighted average and/or excursion limit.

(b) The employer shall ensure that lunchroom facilities have a positive pressure, filtered air supply, and are readily accessible to employees.

(c) The employer shall ensure that employees who work in areas where their airborne exposure is above the ((permissible exposure)) time weighted average and/or excursion limit, wash their hands and faces prior to eating, drinking, or smoking.

(d) The employer shall ensure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface asbestos fibers have been removed from the clothing or equipment by vacuuming or other method that removes dust without causing the asbestos to become airborne.

**AMENDATORY SECTION** (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07721 COMMUNICATION OF HAZARDS TO EMPLOYEES.** (1) Warning signs.

(a) Warning signs shall be provided and displayed at each regulated area. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(b) The warning signs required by (a) of this subsection shall bear the following information:

**DANGER**  
**ASBESTOS**  
**CANCER AND LUNG DISEASE HAZARD**  
**AUTHORIZED PERSONNEL ONLY**  
**RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED IN THIS AREA**

(2) Warning labels.

(a) Warning labels shall be affixed to all products containing asbestos including raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, and to their containers including waste containers. Where feasible, installed asbestos products shall contain a visible label.

(b) Labels shall be printed in large, bold letters on a contrasting background.

(c) The labels shall comply with the requirements of WAC 296-62-05411, and shall include the following information:

**DANGER**  
**CONTAINS ASBESTOS FIBERS**  
**AVOID CREATING DUST**  
**CANCER AND LUNG DISEASE HAZARD**  
**AVOID BREATHING AIRBORNE ASBESTOS FIBERS**

(d) Where minerals to be labeled are only tremolite, anthophyllite, or actinolite, the employer may replace the term "asbestos" with the appropriate mineral name.

(3) Material safety data sheets. Employers who are manufacturers or importers of asbestos, or asbestos products shall comply with the requirements regarding development of material safety data sheets as specified in WAC 296-62-05413, except as provided by subsection (4) of this section.

(4) The provisions for labels required by subsection (2) of this section or for material safety data sheets required by subsection (3) of this section do not apply where:

(a) Asbestos fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of fibers of asbestos in excess of the action level and/or excursion limit will be released; or

(b) Asbestos is present in a product in concentrations less than 0.1 percent by weight.

(5) Employee information and training.

(a) The employer shall institute a training program for all employees who are exposed to airborne concentrations of asbestos at or above the action level and/or excursion limit and ensure their participation in the program.

(b) Training shall be provided prior to or at the time of initial assignment, unless the employee has received equivalent training within the previous twelve months, and at least annually thereafter.

(c) The training program shall be conducted in a manner which the employee is able to understand. The employer shall ensure that each employee is informed of the following:

(i) The health effects associated with asbestos;

(ii) The relationship between smoking and exposure to asbestos in producing lung cancer;

(iii) Methods of recognizing asbestos and the quantity, location, manner of use, release, and storage of asbestos and the specific nature of operations which could result in exposure to asbestos;

(iv) The engineering controls and work practices associated with the employee's job assignment;

(v) The specific procedures implemented to protect employees from exposure to asbestos such as appropriate work practices, housekeeping procedures, hygiene facilities, decontamination procedures, emergency and clean-up procedures, personal protective equipment to be used, and waste disposal procedures, and any necessary instructions in the use of these controls and procedures;

(vi) The purpose, proper use, and limitations of respirators and protective clothing;

(vii) The purpose and a description of the medical surveillance program required by WAC 296-62-07725; and

(viii) The content of this standard, including appendices.

(d) Access to information and training materials.

(i) The employer shall make a copy of this standard and its appendices readily available without cost to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(6) Certification.

(a) All individuals working on asbestos projects, as defined in WAC 296-65-003(4) shall be certified as required by WAC 296-65-010 and 296-65-030.

(b) In cases excepted under WAC 296-65-030 (1) and (2), all employees shall be trained according to subsection (5) of this section.

**AMENDATORY SECTION** (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07725 MEDICAL SURVEILLANCE. (1)**

**General.**

(a) Employees covered. The employer shall institute a medical surveillance program for all employees who are or will be exposed to airborne concentrations of fibers of asbestos at or above the action level and/or excursion limit. Exception. Employers in the construction industry shall institute a medical surveillance program for all employees engaged in work involving levels of asbestos at or above the action level for thirty or more days per year, or who are required by this section to wear negative-pressure respirators.

(b) Examination by a physician.

(i) The employer shall ensure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee and at a reasonable time and place.

(ii) Persons other than licensed physicians, who administer the pulmonary function testing required by this section, shall complete a

training course in spirometry sponsored by an appropriate academic or professional institution.

(2) Preplacement examinations.

(a) Except as provided by WAC 296-62-07725 (1)(a), before an employee is assigned to an occupation exposed to airborne concentrations of asbestos, a preplacement medical examination shall be provided or made available by the employer. Examinations administered using the thirty or more days per year criteria of WAC 296-62-07725 (1)(a) shall be given within ten working days following the thirtieth day of exposure. Examinations must be given prior to assignment of employees to areas where negative-pressure respirators are worn.

(b) All examinations shall include, as a minimum, a medical and work history: A complete physical examination of all systems with special emphasis on the pulmonary, cardiovascular, and gastrointestinal systems; completion of the respiratory disease standardized questionnaire in WAC 296-62-07741, Appendix D, Part 1; a chest roentgenogram (posterior-anterior 14x17 inches); pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV<sub>1.0</sub>); and any additional tests deemed appropriate by the examining physician. Interpretation and classification of chest roentgenograms shall be conducted in accordance with WAC 296-62-07743, Appendix E.

(3) Periodic examinations.

(a) Periodic medical examinations shall be made available annually.

(b) The scope of the medical examination shall be in conformance with the protocol established in subsection (2)(b) of this section, except that the frequency of chest roentgenograms shall be conducted in accordance with Table 2 of this section, and the abbreviated standardized questionnaire contained in WAC 296-62-07741, Appendix D, Part 2, shall be administered to the employee.

**TABLE 2—FREQUENCY OF CHEST ROENTGENOGRAMS**

| Years since first exposure | Age of employee |               |                |
|----------------------------|-----------------|---------------|----------------|
|                            | 15 to 35        | 35+ to 45     | 45+            |
| 0 to 10.....               | Every 5 years   | Every 5 years | Every 5 years. |
| 10+ .....                  | Every 5 years   | Every 2 years | Every 1 year.  |

(c) If the examining physician determines that any of the examinations should be provided more frequently than specified, the employer shall provide such examinations to affected employees at the frequencies specified by the physician.

(4) Termination of employment examinations.

(a) The employer shall provide, or make available, a termination of employment medical examination for any employee who has been exposed to airborne concentrations of fibers of asbestos at or above the action level and/or excursion limit.

(b) The medical examination shall be in accordance with the requirements of the periodic examinations stipulated in subsection (3) of this section, and shall be given within thirty calendar days before or after the date of termination of employment.

(5) Recent examinations. No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with subsection (2), (3), or (4) of this section within the past one-year period.

(6) Information provided to the physician. The employer shall provide the following information to the examining physician:

(a) A copy of this standard and Appendices D, E, and H of WAC 296-62-07741, 296-62-07743, and 296-62-07749 respectively.

(b) A description of the affected employee's duties as they relate to the employee's exposure.

(c) The employee's representative exposure level or anticipated exposure level.

(d) A description of any personal protective and respiratory equipment used or to be used.

(e) Information from previous medical examinations of the affected employee that is not otherwise available to the examining physician.

(7) Physician's written opinion.

(a) The employer shall obtain a written signed opinion from the examining physician. This written opinion shall contain the results of the medical examination and shall include:

(i) The physician's opinion as to whether the employee has any detected medical conditions that would place the employee at an increased risk of material health impairment from exposure to asbestos;

(ii) Any recommended limitations on the employee or upon the use of personal protective equipment such as clothing or respirators; and

(iii) A statement that the employee has been informed by the physician of the results of the medical examination and of any medical conditions resulting from asbestos exposure that require further explanation or treatment.

(b) The employer shall instruct the physician not to reveal in the written opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to asbestos.

(c) The employer shall provide a copy of the physician's written opinion to the affected employee within thirty days from its receipt.

#### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07731 DATES.** (1) The requirements of the asbestos standard issued in May 1973, as amended, and published in WAC 296-62-07517, remain in effect until compliance is achieved with the parallel provisions of WAC 296-62-077 through 296-62-07753.

(2) Start-up dates. All obligations of WAC 296-62-077 through 296-62-07753 commence on the effective date except as follows:

(a) Hygiene and lunchroom facilities. Changerooms, showers, lavatories, and lunchroom facilities shall be constructed and in use no later than July 20, 1987. However, if as part of the compliance plan for a fixed facility as opposed to mobile or construction type activities it is predicted by an independent engineering firm that engineering controls and work practices will reduce exposures below the ((permissible exposure)) time weighted average and/or excursion limit by July 20, 1988, for affected employees, then such facilities need not be completed until one year after the engineering controls are completed, if such controls have not in fact succeeded in reducing exposure to below the permissible exposure limits.

(b) Compliance program. Written compliance programs required by WAC 296-62-07713(2) as a result of initial monitoring shall be completed and available for inspection and copying as soon as possible but no later than July 20, 1987.

(c) Methods of compliance. The engineering and work practice controls as required by WAC 296-62-07713(1) shall be implemented as soon as possible but no later than July 20, 1988.

#### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

**WAC 296-62-07745 APPENDIX F—WORK PRACTICES AND ENGINEERING CONTROLS FOR AUTOMOTIVE BRAKE REPAIR OPERATIONS—NONMANDATORY.** This appendix is intended as guidance for employers in the automotive brake and clutch repair industry who wish to reduce their employees' asbestos exposures during repair operations to levels below the new standard's action level (0.1 f/cc). WISHA believes that employers in this industry sector are likely to be able to reduce their employees' exposures to asbestos by employing the engineering and work practice controls described in subsections (1) and (2) of this section. Those employers who choose to use these controls and who achieve exposures below the action level will thus be able to avoid any burden that might be imposed by complying with such requirements as medical surveillance, recordkeeping, training, respiratory protection, and regulated areas, which are triggered when employee exposures exceed the action level or ((PEL)) permissible exposure limits.

Asbestos exposure in the automotive brake and clutch repair industry occurs primarily during the replacement of clutch plates and brake pads, shoes, and linings. Asbestos fibers may become airborne when an automotive mechanic removes the asbestos-containing residue that has been deposited as brakes and clutches wear. Employee exposures to asbestos occur during the cleaning of the brake drum or clutch housing.

WISHA believes that employers engaged in brake repair operations who implement any of the work practices and engineering controls described in subsections (1) and (2) of this section may be able to reduce their employees' exposures to levels below the action level (0.1 fiber/cc). These control methods and the relevant record evidence on these and other methods are described in the following sections.

##### (1) Enclosed cylinder/HEPA vacuum system method.

The enclosed cylinder-vacuum system used in one of the facilities visited by representatives of the National Institute for Occupational Safety and Health (NIOSH) during a health hazard evaluation of brake repair facilities consists of three components:

(a) A wheel-shaped cylinder designed to cover and enclose the wheel assembly;

(b) A compressed-air hose and nozzle that fits into a port in the cylinder; and

(c) A HEPA-filtered vacuum used to evacuate airborne dust generated within the cylinder by the compressed air.

To operate the system, the brake assembly is enclosed in a cylinder that has viewing ports to provide visibility and cotton sleeves through which the mechanic can handle the brake assembly parts. The cylinder effectively isolates asbestos dust in the drum from the mechanic's breathing zone. One company manufactures the brake assembly isolation cylinder. The cylinder is equipped with built-in compressed-air guns and a connection for a vacuum cleaner equipped with a high efficiency particulate air (HEPA) filter. This type of filter is capable of removing all particles greater than 0.3 microns from the air. When the vacuum cleaner's filter is full, it must be replaced according to the manufacturer's instruction, and appropriate HEPA-filtered dual cartridge respirators should be worn during the process. The filter of the vacuum cleaner is assumed to be contaminated with asbestos fibers and should be handled carefully, wetted with a fine mist of water, placed immediately in a labelled plastic bag, and disposed of properly. When the cylinder is in place around the brake assembly and the HEPA vacuum is connected, compressed air is blown into the cylinder to loosen the residue from the brake assembly parts. The vacuum then evacuates the loosened material from within the cylinder, capturing the airborne material on the HEPA filter.

The HEPA vacuum system can be disconnected from the brake assembly isolation cylinder when the cylinder is not being used. The HEPA vacuum can then be used for clutch facing work, grinding, or other routine cleaning.

##### (2) Compressed air/solvent system method.

A compressed-air hose fitted at the end with a bottle of solvent can be used to loosen the asbestos-containing residue and to capture the resulting airborne particles in the solvent mist. The mechanic should begin spraying the asbestos-contaminated parts with the solvent at a sufficient distance to ensure that the asbestos particles are not dislodged by the velocity of the solvent spray. After the asbestos particles are thoroughly wetted, the spray may be brought closer to the parts and the parts may be sprayed as necessary to remove grease and other material. The automotive parts sprayed with the mist are then wiped with a rag, which must then be disposed of appropriately. Rags should be placed in a labelled plastic bag or other container while they are still wet. This ensures that the asbestos fibers will not become airborne after the brake and clutch parts have been cleaned. (If cleanup rags are laundered rather than disposed of, they must be washed using methods appropriate for the laundering of asbestos-contaminated materials.)

WISHA believes that a variant of this compressed-air/solvent mist process offers advantages over the compressed-air/solvent mist technique discussed above, both in terms of costs and employee protection. The variant involves the use of spray cans filled with any of several solvent cleaners commercially available from auto supply stores. Spray cans of solvent are inexpensive, readily available, and easy to use. These cans will also save time, because no solvent delivery system has to be assembled, i.e., no compressed-air hose/mister ensemble. OSHA believes that a spray can will deliver solvent to the parts to be cleaned with considerably less force than the alternative compressed-air delivery system described above, and will thus generate fewer airborne asbestos fibers than the compressed-air method. The agency therefore believes that the exposure levels of automotive repair mechanics using the spray can/solvent mist process will be even lower than the exposures reported by NIOSH for the compressed-air/solvent mist system (0.08 f/cc).

##### (3) Information on the effectiveness of various control measures.

The amount of airborne asbestos generated during brake and clutch repair operations depends on the work practices and engineering controls used during the repair or removal activity.

##### (a) Prohibited methods.

The use of compressed air to blow the asbestos-containing residue off the surface of the brake drum removes the residue effectively but simultaneously produces an airborne cloud of asbestos fibers. According to NIOSH, the peak exposures of mechanics using this technique were as high as fifteen fibers/cc, and eight-hour TWA exposures ranged from 0.03 to 0.19 f/cc.

Dr. William J. Nicholson of the Mount Sinai School of Medicine cited data from Knight and Hickish (1970) that indicated that the concentration of asbestos ranged from 0.84 to 5.35 f/cc over a sixty-minute sampling period when compressed air was being used to blow out the asbestos-containing residue from the brake drum. In the same

study, a peak concentration of eighty-seven f/cc was measured for a few seconds during brake cleaning performed with compressed air. Rohl et al. (1976) measured area concentrations (of unspecified duration) within three to five feet of operations involving the cleaning of brakes with compressed air and obtained readings ranging from 6.6 to 29.8 f/cc. Because of the high exposure levels that result from cleaning brake and clutch parts using compressed air, WISHA has prohibited this practice in the revised standard.

(b) Ineffective methods.

When dry brushing was used to remove the asbestos-containing residue from the brake drums and wheel assemblies, peak exposures measured by NIOSH ranged from 0.61 to 0.81 f/cc, while eight-hour TWA levels were at the new standard's permissible exposure limit (PEL) of 0.2 f/cc. Rohl and his colleagues collected area samples one to three feet from a brake cleaning operation being performed with a dry brush, and measured concentrations ranging from 1.3 to 3.6 f/cc; however, sampling times and TWA concentrations were not presented in the Rohl et al. study.

When a brush wetted with water, gasoline, or Stoddart solvent was used to clean the asbestos-containing residue from the affected parts, exposure levels (eight-hour TWAs) measured by NIOSH also exceeded the new 0.2 f/cc PEL, and peak exposures ranged as high as 2.62 f/cc.

(c) Preferred methods.

Use of an engineering control system involving a cylinder that completely encloses the brake shoe assembly and a high efficiency particulate air (HEPA) filter-equipped vacuum produced eight-hour TWA employee exposures of 0.01 f/cc and peak exposures ranging from nondetectable to 0.07 f/cc. (Because this system achieved exposure levels below the standard's action level, it is described in detail above.) Data collected by the Mount Sinai Medical Center for Nilfisk of America, Inc., the manufacturer of the brake assembly enclosure system, showed that for two of three operations sampled, the exposure of mechanics to airborne asbestos fibers was nondetectable. For the third operator sampled by Mt. Sinai researchers, the exposure was 0.5 f/cc, which the authors attributed to asbestos that had contaminated the operator's clothing in the course of previous brake repair operations performed without the enclosed cylinder/vacuum system.

Some automotive repair facilities use a compressed-air hose to apply a solvent mist to remove the asbestos-containing residue from the brake drums before repair. The NIOSH data indicated that mechanics employing this method experienced exposures (eight-hour TWAs) of 0.8 f/cc, with peaks of 0.25 to 0.68 f/cc. This technique, and a variant of it, that ((OSHA)) WISHA believes is both less costly and more effective in reducing employee exposures, is described in greater detail in subsections (1) and (2) of this section.

(4) Summary.

In conclusion, WISHA believes that it is likely that employers in the brake and clutch repair industry will be able to avail themselves of the action level trigger built into the revised standard if they conscientiously employ one of the three control methods described above: The enclosed cylinder/HEPA vacuum system, the compressed air/solvent method, or the spray can/solvent mist system.

#### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

#### WAC 296-62-07747 APPENDIX G—SUBSTANCE TECHNICAL INFORMATION FOR ASBESTOS—NONMANDATORY.

(1) Substance identification.

(a) Substance: "Asbestos" is the name of a class of magnesium-silicate minerals that occur in fibrous form. Minerals that are included in this group are chrysotile, crocidolite, amosite, tremolite asbestos, anthophyllite asbestos, and actinolite asbestos.

(b) Asbestos is used in the manufacture of heat-resistant clothing, automotive brake and clutch linings, and a variety of building materials including floor tiles, roofing felts, ceiling tiles, asbestos-cement pipe and sheet, and fire-resistant drywall. Asbestos is also present in pipe and boiler insulation materials, and in sprayed-on materials located on beams, in crawlspaces, and between walls.

(c) The potential for a product containing asbestos, tremolite, anthophyllite, and actinolite to release breathable fibers depends on its degree of friability. Friable means that the material can be crumbled with hand pressure and is therefore likely to emit fibers. The fibrous or fluffy sprayed-on materials used for fireproofing, insulation, or sound proofing are considered to be friable, and they readily release airborne fibers if disturbed. Materials such as vinyl-asbestos floor tile or roofing felts are considered nonfriable and generally do not emit

airborne fibers unless subjected to sanding or sawing operations. Asbestos-cement pipe or sheet can emit airborne fibers if the materials are cut or sawed, or if they are broken during demolition operations.

(d) Permissible exposure: Exposure to airborne asbestos fibers may not exceed 0.2 fibers per cubic centimeter of air (0.2 f/cc) averaged over the eight-hour workday (time weighted average), or 0.1 fibers per cubic centimeter of air (0.1 f/cc) during any fifteen minute period, (excursion limit).

(2) Health hazard data.

(a) Asbestos can cause disabling respiratory disease and various types of cancers if the fibers are inhaled. Inhaling or ingesting fibers from contaminated clothing or skin can also result in these diseases. The symptoms of these diseases generally do not appear for twenty or more years after initial exposure.

(b) Exposure to asbestos has been shown to cause lung cancer, mesothelioma, and cancer of the stomach and colon. Mesothelioma is a rare cancer of the thin membrane lining of the chest and abdomen. Symptoms of mesothelioma include shortness of breath, pain in the walls of the chest, and/or abdominal pain.

(3) Respirators and protective clothing.

(a) Respirators: You are required to wear a respirator when performing tasks that result in asbestos exposure that exceeds ((the permissible exposure limit (PEL) of 0.2 f/cc)) 0.2 fibers per cubic centimeter of air (0.2 f/cc) as an eight-hour time weighted average and/or 1.0 fiber per cubic centimeter (1 f/cc) during any 15 minute period (excursion limit). These conditions can occur while your employer is in the process of installing engineering controls to reduce asbestos exposure, or where engineering controls are not feasible to reduce asbestos exposure. Air-purifying respirators equipped with a high-efficiency particulate air (HEPA) filter can be used where airborne asbestos fiber concentrations do not exceed 2 f/cc; otherwise, air-supplied, positive-pressure, full facepiece respirators must be used. Disposable respirators or dust masks are not permitted to be used for asbestos work. For effective protection, respirators must fit your face and head snugly. Your employer is required to conduct fit tests when you are first assigned a respirator and every six months thereafter. Respirators should not be loosened or removed in work situations where their use is required.

(b) Protective clothing: You are required to wear protective clothing in work areas where asbestos fiber concentrations exceed the permissible exposure limits ((PEL of 0.2 f/cc)) to prevent contamination of the skin. Where protective clothing is required, your employer must provide you with clean garments. Unless you are working on a large asbestos removal or demolition project, your employer must also provide a change room and separate lockers for your street clothes and contaminated work clothes. If you are working on a large asbestos removal or demolition project, and where it is feasible to do so, your employer must provide a clean room, shower, and decontamination room contiguous to the work area. When leaving the work area, you must remove contaminated clothing before proceeding to the shower. If the shower is not adjacent to the work area, you must vacuum your clothing before proceeding to the change room and shower. To prevent inhaling fibers in contaminated change rooms and showers, leave your respirator on until you leave the shower and enter the clean change room.

(4) Disposal procedures and cleanup.

(a) Wastes that are generated by processes where asbestos is present include:

- (i) Empty asbestos shipping containers.
- (ii) Process wastes such as cuttings, trimmings, or reject material.
- (iii) Housekeeping waste from sweeping or vacuuming.
- (iv) Asbestos fireproofing or insulating material that is removed from buildings.

(v) Building products that contain asbestos removed during building renovation or demolition.

(vi) Contaminated disposable protective clothing.

(b) Empty shipping bags can be flattened under exhaust hoods and packed into airtight containers for disposal. Empty shipping drums are difficult to clean and should be sealed.

(c) Vacuum bags or disposable paper filters should not be cleaned, but should be sprayed with a fine water mist and placed into a labeled waste container.

(d) Process waste and housekeeping waste should be wetted with water or a mixture of water and surfactant prior to packaging in disposable containers.

(e) Material containing asbestos that is removed from buildings must be disposed of in leaktight 6-mil thick plastic bags, plastic-lined cardboard containers, or plastic-lined metal containers. These wastes,

which are removed while wet, should be sealed in containers before they dry out to minimize the release of asbestos fibers during handling.

(5) Access to information.

(a) Each year, your employer is required to inform you of the information contained in this standard and appendices for asbestos. In addition, your employer must instruct you in the proper work practices for handling materials containing asbestos and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to asbestos. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure, and, if you are exposed above the permissible limits, he or she is required to inform you of the actions that are being taken to reduce your exposure to within the permissible limits.

(c) Your employer is required to keep records of your exposures and medical examinations. These exposure records must be kept for at least thirty years. Medical records must be kept for the period of your employment plus thirty years.

(d) Your employer is required to release your exposure and medical records to your physician or designated representative upon your written request.

**AMENDATORY SECTION** (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

**WAC 296-62-300 SCOPE, APPLICATION, AND DEFINITIONS.** (1) Scope for operations other than emergency response. This section covers employers and employees engaged in the following operations:

(a) Hazardous substance response operations that are conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (42 U.S.C. 9601 et seq.) (CERCLA), including initial investigations at CERCLA sites before the presence or absence of hazardous substances has been ascertained;

(b) Major corrective actions taken in clean-up operations under the Resource Conservation and Recovery Act of 1976 as amended (42 U.S.C. 6901 et seq.) (RCRA);

(c) Operations involving hazardous waste storage, disposal, and treatment facilities regulated under WAC 173-303-400 pursuant to RCRA;

(d) Hazardous waste operations sites that have been designated for clean-up by state or local governmental authorities; and

(2) Scope for emergency response operations. This section also covers employers whose employees have a reasonable possibility of engaging in emergency response operations for releases of, or substantial threats of releases of, hazardous substances without regard to the location of the hazard.

(3) Application.

(a) All requirements of this chapter and chapters 296-24 and 296-155 WAC apply pursuant to their terms to hazardous waste operations whether covered by this part or not. In addition, the provisions of this part apply to operations covered by this part. If there is a conflict or overlap, the provision more protective of employee safety and health shall apply.

(b) All sections of this part except WAC ((296-62-3110 and)) 296-62-3140 apply to operations involving hazardous substances conducted under CERCLA, major corrective actions taken in clean-up operations under RCRA, and hazardous waste operations that have been designated for clean-up by state or local governmental authorities.

(c) Only the requirements of WAC 296-62-3110 and 296-62-3140 apply to those operations involving hazardous waste storage, disposal, and treatment facilities regulated under WAC 173-303-400.

Exceptions: For small quantity generators and generators with less than ninety days accumulation of hazardous wastes who have emergency response teams that respond to releases of, or substantial threats of releases of, hazardous substances, only WAC 296-62-3110 is applicable. Small quantity generators and generators with less than ninety days accumulation of hazardous wastes who do not have emergency response teams that respond to releases of, or substantial threats of releases of, hazardous substances are exempt from the regulations of this section.

(d) WAC 296-62-3110 applies to all emergency response operations for releases of, or substantial threats of releases of hazardous substances including those releases of or substantial threats of releases that occur at worksites other than those sites identified in (a) through (c) of this subsection.

(4) Definitions.

(a) "Buddy system" means a system of organizing employees into work groups in such a manner that each employee of the work group is designated to observe the activities of at least one other employee in the work group. The purpose of the buddy system is to provide quick assistance to those other employees in the event of an emergency.

(b) "Decontamination" means the removal of hazardous substances from employees and their equipment to the extent necessary to preclude the occurrence of foreseeable adverse health effects.

(c) "Emergency response" means a coordinated response effort by employees from outside the immediate release area or by outside responders (i.e., mutual aid groups, local fire departments, etc.) to an occurrence which results, or is likely to result, in an uncontrolled release of a hazardous substance. Responses to incidental releases of hazardous substances where the substance can be absorbed, neutralized, or otherwise controlled at the time of release by employees in the immediate release area are not considered to be emergency responses within the scope of this standard. Responses to release of hazardous substances where the concentration of hazardous substance is below the established permissible exposure limits established in this standard are not considered to be emergency responses.

(d) "Established exposure levels" means the inhalation or dermal permissible exposure limit specified, in this chapter, or if none is specified, the exposure limits in "NIOSH Recommendations for Occupational Health Standards" dated 1986 incorporated by reference, or if neither of the above is specified, the standards specified by the American Conference of Governmental Industrial Hygienists in their publication "Threshold Limit Values and Biological Exposure Indices for 1986-87 dated 1986" incorporated by reference. The two documents incorporated by reference are available for purchase from the following:

NIOSH, Publications Dissemination, Division of Standards Development and Technology Transfer, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, OH 45226, (513) 841-4287; and

American Conference of Governmental Industrial Hygienists, 6500 Glenway Ave., Building D-7, Cincinnati, OH 45211-4438, (513) 661-7881 and are available for inspection and copying at the OSHA Docket Office, Docket No. S-760, Room N-3671, 200 Constitution Ave., N.W., Washington, DC 20210.

(e) "Facility" means (i) any building structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly-owned treatment works), well, pit, pond, lagoon, impoundment, ditch, storage container, motor vehicle, rolling stock, or aircraft, or (ii) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

(f) "Hazardous materials (HAZMAT) team" means an organized group of employees, designated by the employer, who are knowledgeable and specifically trained and skilled to handle and control leaking containers or vessels, use and select special chemical protective clothing and perform other duties associated with accidental releases of hazardous substances. The team members perform responses to releases of hazardous substances for the purpose of control or stabilization of the release. A HAZMAT team is not a fire brigade nor is a typical fire brigade a HAZMAT team. A HAZMAT team, however, may be a separate component of a fire brigade.

(g) "Hazardous substance" means any substance designated or listed under (g)(i) through (iv) of this subsection, exposure to which results or may result in adverse effects on the health or safety of employees:

(i) Any substance defined under section 101(14) of CERCLA;

(ii) Any biological agent and other disease-causing agent as defined in section 101(33) of CERCLA;

(iii) Any substance listed by the United States Department of Transportation and regulated as hazardous materials under WAC 480-12-195; and

(iv) Hazardous waste.

(h) "Hazardous waste" means:

(i) A waste or combination of wastes as defined in WAC 173-303-040; or

(ii) Those substances defined in WAC 480-12-195.

(i) "Hazardous waste operation" means any operation conducted within the scope of this standard involving employee exposure to hazardous wastes, hazardous substances, or any combination of hazardous wastes and hazardous substances.

(j) "Hazardous waste site" or "site" means any facility or location within the scope of this standard at which hazardous waste operations take place.

(k) "Health hazard" means a chemical, mixture of chemicals, or a pathogen for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. Further definition of the terms used above can be found in Appendix A to WAC 296-62-054 through 296-62-05427.

(l) "IDLH" or "immediately dangerous to life or health" means any atmospheric concentration of any toxic, corrosive, or asphyxiant substance that poses an immediate threat to life or would cause irreversible or delayed adverse health effects or would interfere with an individual's ability to escape from a dangerous atmosphere.

(m) "Oxygen deficiency" means that concentration of oxygen by volume below which air supplying respiratory protection must be provided. It exists in atmospheres where the percentage of oxygen by volume is less than 19.5 percent oxygen.

(n) "Permissible exposure limit" means the inhalation or dermal permissible limit specified in WAC 296-62-075 through 296-62-07515.

(o) "Post emergency response" means that portion of an emergency response performed after the immediate threat of a release has been stabilized or eliminated and clean-up of the site has begun. If post emergency response is performed by an employer's own employees as a continuation of initial emergency response, it is considered to be part of the initial response and not post emergency response.

(p) "Qualified person" means a person with specific training, knowledge, and experience in the area for which the person has responsibility.

(q) "Site safety and health supervisor (or official)" means the individual located on a hazardous waste site who is responsible to the employer and has the authority and knowledge necessary to implement the site safety and health plan and verify compliance with applicable safety and health requirements.

(r) "Small quantity generator" means a generator of hazardous wastes who in any calendar month generates no more than 1000 kilograms (2201 pounds) of hazardous waste in that month.

#### AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

**WAC 296-62-3110 EMERGENCY RESPONSE.** Emergency response at hazardous waste operation incidents shall be conducted in accordance with this section.

(1) General.

(a) An emergency response plan shall be developed and implemented by all employers within the scope of this section to handle anticipated emergencies prior to the commencement of hazardous waste operations. The plan shall be in writing and available for inspection and copying by employees, their representatives, and WISHA personnel. Employers who will evacuate their employees from the workplace when an emergency occurs and who do not permit any of their employees to respond to assist in handling the emergency are exempt from the requirements of this section if they provide an emergency action plan complying with WAC 296-24-567(1).

(b) Elements of an emergency response plan. The employer shall develop an emergency response plan for emergencies which shall address as a minimum, the following:

- (i) Preemergency planning.
- (ii) Personnel roles, lines of authority, training, and communication.
- (iii) Emergency recognition and prevention.
- (iv) Safe distances and places of refuge.
- (v) Site security and control.
- (vi) Evacuation routes and procedures.
- (vii) Decontamination.
- (viii) Emergency medical treatment and first aid.
- (ix) Emergency alerting and response procedures.
- (x) Critique of response and follow-up.
- (xi) PPE and emergency equipment.

(2) Emergency response at hazardous waste clean-up sites.

(a) Training. Training for emergency response employees at clean-up operations shall be conducted in accordance with WAC 296-62-3040.

(b) Employers who can show that an employee's work experience and/or training has resulted in training equivalent to that training required in (a) of this subsection, shall not be required to provide the initial training requirements of (a) of this subsection. Equivalent training includes the training that existing employees might have already received from actual site work experience.

(c) Procedures for handling site emergency incidents.

(i) In addition to the elements for the emergency response plan required in subsection (1)(b) of this section, the following elements shall be included for emergency response plans:

(A) Site topography, layout, and prevailing weather conditions.

(B) Procedures for reporting incidents to local, state, and federal governmental agencies.

(ii) The emergency response plan shall be a separate section of the site safety and health plan.

(iii) The emergency response plan shall be compatible and integrated with the disaster, fire and/or emergency response plans of local, state, and federal agencies.

(iv) The emergency response plan shall be rehearsed regularly as part of the overall training program for site operations.

(v) The site emergency response plan shall be reviewed periodically and, as necessary, be amended to keep it current with new or changing site conditions or information.

(vi) An employee alarm system shall be installed in accordance with WAC 296-24-631 through 296-24-63199 to notify employees of an on-site emergency situation, to stop work activities if necessary, to lower background noise in order to speed communication, and to begin emergency procedures.

(vii) Based upon the information available at the time of the emergency, the employer shall evaluate the incident and the site response capabilities and proceed with the appropriate steps to implement the on-site emergency response plan.

(3) Emergency response at sites other than hazardous waste clean-up sites.

(a) Training. Employers shall provide the training specified by this section for those employees for whom there exists the reasonable possibility of responding to emergencies at sites other than hazardous waste clean-up sites.

(i) Emergency response organizations or teams. Employees on emergency response organizations or teams such as fire brigades, fire departments, plant emergency organizations, hazardous materials teams, spill response teams, and similar groups with responsibility for emergency response shall be trained to a level of competence to protect themselves and other employees in the recognition of health and safety hazards, methods to minimize the risk from safety and health hazards, safe use of control equipment, selection and use of appropriate personal protective equipment, safe operating procedures to be used at the incident scene, techniques of coordination with other employees to minimize risks, appropriate response to over exposure from health hazards or injury to themselves and other employees, and recognition of subsequent symptoms which may result from over exposures.

(A) Competency may be demonstrated by twenty-four hours of training annually in those areas with training sessions at least monthly or by demonstrations by the employee of competency in those areas at least quarterly.

(B) A certification shall be made of the training or competency and if certification of competency is made, the employer shall keep a record of the methodology used to demonstrate competency.

(C) An employer of employees for whom the reasonable possibility of responding to emergencies at other than hazardous waste clean-up sites exists need not train all such employees to the degree specified in (a)(i)(A) of this subsection if the employer divides the work force such that sufficient employees who have responsibility to control the emergency have the training specified in this section and other employees who may first respond to the incident have sufficient awareness training to recognize that an emergency response situation exists and are instructed in that case to summon the employees who are fully trained and not attempt control activities for which they are not trained.

(D) An employer of employees for whom the reasonable possibility exists of responding to emergencies at other than hazardous waste clean-up sites need not train such employees to the degree specified in (a)(i)(A) of this subsection if:

(i) Arrangements have been made in advance for a fully-trained emergency response team to respond in a reasonable period; and

(II) Employees who may come to the incident first have sufficient awareness training to recognize that an emergency response situation exists and are instructed to call the designated fully-trained emergency response team for assistance.

(ii) Specialist employees. Employees who, in the course of their regular job duties, work with and are trained in the hazards of specific materials covered by this standard, and who will be called upon to provide technical advice or assistance at a hazardous substance release incident, are exempt from the monthly training sessions required in (a)(i) of this subsection. They must, pursuant to (a)(i) of this subsection, however, receive at least twenty-four hours of training annually or demonstrate competency in the area of their specialization.

(iii) Skilled support personnel. Personnel, not necessarily an employer's own employees, who are needed to perform immediate emergency support work that cannot reasonably be performed in a timely fashion by an employer's own employees, and who will be or may potentially be exposed to the hazards at an emergency response scene, are not required to have the twenty-four hours of annual training or demonstrate the competency required for the employer's regular employees. However, the senior official cited in (b)(i) of this subsection shall ensure that these personnel are given an initial briefing at the site of emergency response prior to their participation in that response that shall include instruction in the wearing of appropriate personal protective equipment, what chemical hazards are involved, and what duties are to be performed. All appropriate safety and health precautions provided to the employer's own employees shall be used to assure the safety and health of these personnel.

(b) Procedures for handling off-site emergency response.

(i) The senior officer responding to an emergency at other than hazardous waste clean-up sites involving a hazardous substance or health hazard shall establish and become the individual in charge of a site-specific incident command system (ICS). All emergency responders and their communications shall be coordinated and controlled through the individual in charge of the ICS assisted by the senior official present for each employer.

Note: The "senior official" at an off-site emergency response is the most senior official on the site who has the responsibility for controlling the operations at the site. Initially it is the senior officer on the first-due piece of responding emergency apparatus to arrive on the incident scene. As more senior officers arrive (i.e., fire chief, battalion chief, site coordinator, etc.) the position is passed up the line of authority.

(ii) The individual in charge of the ICS shall identify, to the extent possible, all hazardous substances or conditions present and shall address as appropriate site analysis, use of engineering controls, maximum exposure limits, hazardous substance handling procedures, and use of any new technologies.

(iii) Based on the hazardous substances and/or conditions present, the individual in charge of the ICS shall implement appropriate emergency operations, and assure that the personal protective equipment worn is appropriate for the hazards to be encountered. However, personal protective equipment shall meet, at a minimum, the criteria contained in WAC 296-24-58505 through 296-24-58507 when worn while performing fire fighting operations beyond the incipient stage.

(iv) Employees engaged in emergency response and exposed to hazardous substances shall wear positive pressure self-contained breathing apparatus while engaged in emergency response until such time that the individual in charge of the ICS determines through the use of air monitoring that a decreased level of respiratory protection will not result in hazardous exposures to employees.

(v) The individual in charge of the ICS shall limit the number of emergency response personnel at the emergency site to those who are actively performing emergency operations. However, operations in hazardous areas shall be performed using the buddy system in groups of two or more.

(vi) Back-up personnel shall stand by with equipment ready to provide assistance or rescue. Qualified basic life support personnel, as a minimum, shall also stand by with medical equipment and transportation capability.

(vii) The individual in charge of the ICS shall designate a safety official, who is knowledgeable in the operations being implemented at the emergency response site, with specific responsibility to identify and evaluate hazards and to provide direction with respect to the safety of operations for the emergency at hand.

(viii) When activities are judged by the safety official to be an IDLH condition and/or to involve an imminent danger condition, the safety officer shall have the authority to alter, suspend, or terminate

those activities. The safety officer shall immediately inform the individual in charge of the ICS of any actions taken to correct these hazards at an emergency scene.

(ix) After emergency operations have terminated, the individual in charge of the ICS shall implement appropriate decontamination procedures.

(x) When deemed necessary for meeting the tasks at hand, approved self-contained compressed air breathing apparatus may be used with approved cylinders from other approved self-contained compressed air breathing apparatus provided that such cylinders are of the same capacity and pressure rating. All compressed air cylinders used with self-contained breathing apparatus shall meet United States Department of Transportation and National Institute for Occupational Safety and Health criteria.

(4) Hazardous materials teams (HAZMAT).

(a) Employees who are members of the HAZMAT team shall be given training in accordance with subsection (3) of this section that includes the care and use of chemical protective clothing and procedures to be followed when working on leaking drums, containers, tanks, or bulk transport vehicles.

(b) Members of HAZMAT teams shall receive a base line physical exam and have medical surveillance meeting the requirements of WAC 296-62-3050.

(c) Chemical personal protective clothing and equipment to be used by HAZMAT team members shall meet the requirements of WAC 296-62-3060.

(5) Post-emergency response operations. Upon completion of the emergency response, if it is determined that it is necessary to remove hazardous substances, health hazards and materials contaminated with them (such as contaminated soil or other elements of the natural environment) from the site of the incident the employer conducting the clean-up shall comply with one of the following:

(a) Meet all the requirements of WAC 296-62-3010 through 296-62-3130.

(b) Where the clean-up is done on plant property using plant or workplace employees, such employees shall have completed the training requirements of the following: WAC 296-24-567, ((296-24-07109)) 296-62-07109(6), 296-62-05415(2), and other appropriate safety and health training made necessary by the tasks that they are expected to be performed. All equipment to be used in the performance of the clean-up work shall be in serviceable condition and shall have been inspected prior to use.

**AMENDATORY SECTION** (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3140 CERTAIN OPERATIONS CONDUCTED UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (RCRA). Employers conducting operations specified in WAC ((296-62-3060 (2)(c))) 296-62-300 (3)(c) shall:

(1) Develop and implement a written safety and health program for employees involved in hazardous waste operations which shall be available for inspection by employees, their representatives and WISHA personnel. The program shall be designed to identify, evaluate and control safety and health hazards in their facilities for the purpose of employee protection, and provide for emergency response meeting the requirements of WAC 296-62-3110 and it shall address as appropriate site analysis, engineering controls, maximum exposure limits, hazardous waste handling procedures and uses of new technologies;

(2) Implement a hazard communication program as part of the employer's safety and health program meeting the requirements of WAC 296-62-054 through 296-62-05427;

(3) Implement a medical surveillance program meeting the requirements of WAC 296-62-3050;

(4) Develop and implement a decontamination procedure in accordance with WAC 296-62-3100; and

(5) Develop and implement a training program, which is part of the employer's safety and health program, for employees involved with hazardous waste operations to enable each employee to perform their assigned duties and functions in a safe and healthful manner so as not to endanger themselves or other employees. The initial training shall be for twenty-four hours and refresher training shall be for eight hours annually.

Employers who can show by an employee's previous work experience and/or training that the employee has had training equivalent to the initial training required by this section, shall be considered as meeting the initial training of this section as to that employee. Equivalent

training includes the training that existing employees might have already received from actual site work experience. Employees who have received the initial training required by this paragraph shall be given a written certificate attesting that they have successfully completed the necessary training.

(6) New technology programs.

(a) The employer shall develop and implement procedures for the introduction of effective new technologies and equipment developed for the improved protection of employees working with hazardous waste clean-up operations, and the same shall be implemented as part of the site safety and health program to assure that employee protection is being maintained.

(b) New technologies, equipment, or control measures available to the industry, such as the use of foams or other means to suppress the level of air contaminates while excavating the site or for spill control, shall be evaluated by employers or their representatives to determine their effectiveness before implementing their use on a large scale for employee protection. Such evaluations shall be made available to WISHA upon request.

**AMENDATORY SECTION** (Amending Order 81-21, filed 8/27/81)

**WAC 296-78-515 MANAGEMENT'S RESPONSIBILITY.** (1) It shall be the responsibility of management to establish and supervise:

(a) A safe and healthful working environment.

(b) An accident prevention program as required by these standards.

(c) Training programs to improve the skill and competency of all employees in the field of occupational safety and health. Such training shall include the on-the-job instructions on the safe use of powered materials handling equipment, machine tool operations, use of toxic materials and operation of utility systems prior to assignments to jobs involving such exposures.

(2) The employer shall develop and maintain a hazard communication program as required by WAC 296-62-054 through 296-62-05427 which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(3) Management shall not assign mechanics, millwrights, or other persons to work on equipment by themselves when there is a probability that the person could fall from elevated work locations or equipment or that a person could be pinned down by heavy parts or equipment so that they could not call for or obtain assistance if the need arises.

Note: This subsection does not apply to operators of motor vehicles, watchmen or certain other jobs which, by their nature, are singular employee assignments. However, a definite procedure for checking the welfare of all employees during their working hours shall be instituted and all employees so advised.

((3)) (4) After the emergency actions following accidents that cause serious injuries that have immediate symptoms, a preliminary investigation of the cause of the accident shall be conducted. The investigation shall be conducted by a person designated by the employer, the immediate supervisor of the injured employee, witnesses, employee representative if available and any other person with the special expertise required to evaluate the facts relating to the cause of the accident. The findings of the investigation shall be documented by the employer for reference at any following formal investigation.

((4)) (5) Reporting of fatality or multiple hospitalization accidents.

(a) Within twenty-four hours after the occurrence of an employment accident which results in an immediate or probable fatality(s) or which results in the hospitalization of two or more employees, the employer of any employee so injured or killed shall report the accident, either orally or in writing, to the nearest office of the department. The reporting may be by telephone or telegraph. The reporting shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The director may require such additional reports, in writing or otherwise, as he deems necessary, concerning the accident.

(b) Equipment involved in an accident resulting in an immediate or probable fatality, shall not be moved, until a representative of the division of industrial safety and health investigates the accident and releases such equipment, except where removal is essential to prevent further accident. Where necessary to remove the victim, such equipment may be moved only to the extent of making possible such removal.

(c) Upon arrival of division of industrial safety and health investigator, employer shall assign to assist the investigator, the immediate

supervisor and all employees who were witnesses to the accident, or whoever the investigator deems necessary to complete his investigation.

((5)) (6) A system for maintaining records of occupational injuries and illnesses as prescribed by chapter 296-27 WAC.

Note: Recordable cases include:

- ((1)) (a) Every occupational death.
- ((2)) (b) Every industrial illness.
- ((3)) (c) Every occupational injury that involves one of the following:
- ((4)) (i) Unconsciousness.
- ((5)) (ii) Inability to perform all phases of regular job.
- ((6)) (iii) Inability to work full time on regular job.
- ((7)) (iv) Temporary assignment to another job.
- ((8)) (v) Medical treatment beyond first aid.

All employers with eleven or more employees shall record occupational injury and illness information on forms OSHA 101 - supplementary record occupational injuries and illnesses and OSHA 200 - log and summary. Forms other than OSHA 101 may be substituted for the supplementary record of occupational injuries and illnesses if they contain the same items.

**AMENDATORY SECTION** (Amending Order 81-21, filed 8/27/81)

**WAC 296-78-56501 LOG DUMPS AND PONDS.** (1) Log dumps, booms, ponds or storage areas, if used at night, shall be illuminated in accordance with the requirements of WAC 296-62-09003, general occupational health standards.

(2) A log dump shall be constructed at each log pond or decking ground. Log trucks shall not be unloaded by use of peavies or by hand.

(a) The roadbed shall be of hard packed gravel, heavy planking or equivalent material and shall be maintained at all times. Roadbeds at log dumps shall be of width and evenness to insure safe operation of equipment.

(b) A mechanical unloading device shall be provided and used for unloading logs. Log unloading areas shall be arranged and maintained to provide a safe working area.

(c) Signs prohibiting unauthorized foot or vehicle traffic in log unloading and storage areas shall be posted.

(d) At no time shall one person be permitted to work alone on a log dump, a booming or rafting grounds, or a log pond.

(3) Water log dumps. Ungrounded electrically powered hoists using handheld remote control in grounded locations, such as log dumps or mill log lifts, shall be actuated by circuits operating at less than 50 volts to ground.

(4)(a) A brow log, skid timbers or the equivalent shall be installed on all log dumps.

(b) Where logs are unloaded onto skids, sufficient space shall be provided between the top of the skids and the ground to accommodate the body of a person.

(c) All truck dumps shall be built with not more than six inches variation of level from side to side.

(5)(a) All truck log dumps shall be equipped with a positive safeguard to prevent logs from leaving the load on the side opposite the brow log. Jill pokes shall not be used on truck log dumps.

(b) Unloading lines shall be attached and tightened or other positive safeguard in place before binder chains are released at any log dump.

(c) Stakes and chocks which trip shall be constructed in such manner that the tripping mechanism that releases the stake or chocks is activated at the opposite side of the load being tripped.

(d) Binders shall be released only from the side on which the unloader operates, except when released by remote control devices or except when person making release is protected by racks or stanchions or other equivalent means.

(e) Loads on which a binder is fouled by the unloading machine shall have an extra binder or metal band of equal strength placed around the load, or the load shall be otherwise secured so that the fouled binder can be safely removed.

(f) Unloading lines, crotch lines, or equally effective means shall be arranged and used in a manner to minimize the possibility of any log swinging or rolling back.

(6)(a) In unloading operations, the operator of unloading machine shall have an unobstructed view of the vehicle and the logs being unloaded.

(b) Unloading lines shall be arranged so that it is not necessary for the employees to attach them from the pond or dump site of the load except when entire loads are lifted from the log-transporting vehicle.

(7) All log dumps shall be kept reasonably free of bark and other debris.

(8) Employees shall remain in the clear until all moving equipment has come to a complete stop.

(9) Artificial log ponds subject to unhealthy stagnation shall be drained, cleansed, and water changed at least once every six months.

(10) All employees whose regular work requires walking on logs shall wear spiked or calked shoes, except when working in snow.

(11) Employees working on, over or along water, where the danger of drowning exists, shall be provided with and shall wear approved personal flotation devices.

(a) Employees are not considered exposed to the danger of drowning:

(i) When working behind standard height and strength guardrails;

(ii) When working inside operating cabs or stations which eliminate the possibility of accidentally falling into the water;

(iii) When wearing approved safety belts with lifeline attached so as to preclude the possibility of falling into the water;

(iv) When water depth is known to be chest-deep or less.

(b) Prior to and after each use, personal floating devices shall be inspected for defects which would reduce their designed effectiveness. Defective personal flotation devices shall not be used.

(c) To meet the approved criteria required by this subsection (11) ((of this subsection)), a personal flotation device shall be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, pursuant to 46 CFR 160 (Coast Guard lifesaving equipment specifications) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices). Ski belt or inflatable type personal flotation devices are specifically prohibited.

(12)(a) Wooden pike poles shall be of continuous, straight grained No. 1 material. Defective poles, blunt or dull pikes shall not be used.

(b) Aluminum or other metal poles shall not be used where hazard of coming in contact with live electric wires exists.

(13)(a) Walkways and floats shall be provided and security anchored to provide safe passage for workers.

(b) Permanent cable swiflers shall be so arranged that it will not be necessary to roll boom sticks in order to attach or detach them.

(c) Inspection of cable or dogging lines shall be made as necessary to determine when repair or removal from service is necessary.

(14)(a) Decks of floats or other walkways shall be kept above the waterline at all times and shall be capable of supporting four times the load to be imposed.

(b) Floating donkeys or other power-driven machinery used on booms shall be placed on a raft or float with enough buoyancy to keep the deck above water.

(15)(a) All regular boom sticks and foot logs shall be reasonably straight, have all protruding knots and bark removed, and shall be capable of supporting above the waterline at either end, any necessary weight of workers and equipment.

(b) Stiff booms shall be two float logs wide secured by boom chains or other connecting devices, and of a width adequate for the working needs. Walking surfaces shall be free of loose material and maintained in good repair.

(c) Boom sticks shall be fastened together with crossties or couplings.

#### AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

**WAC 296-79-050 PERSONAL PROTECTION.** (1) Personal protective equipment and clothing. Personal protective clothing and equipment as required by the general safety and health standards and the general occupational health standards shall be furnished by the employer and worn or used by the employee when needed to eliminate or minimize the degree of hazard involved with any specific operation.

(a) Required clothing, caps, etc. Employees shall wear sufficient clothing to protect them from hazards to which they may be exposed while performing their duties. Consideration must be given to temperatures in certain areas in which persons work. Employees whose hair is long enough to be caught in machinery or equipment around which they work shall wear caps, hair nets or other protection which will adequately confine the hair while performing their duties.

Rings or other jewelry which could create a hazard should not be worn by employees while in the performance of their work.

(b) Protective footwear. Employees who work in areas where there is a possibility of foot injury due to falling or rolling objects shall wear safety type footwear. Shoe guards and toe protectors will be supplied by management. Management shall also make safety shoes available

for purchase by employees at not more than actual cost to management.

Calks or other suitable footwear which will afford reasonable protection from slipping shall be worn while working on logs. Calk boots shall be made available at cost.

(2) Working over or near water.

(a) Employees working over or near water who are exposed to the danger of drowning shall be provided with and shall wear U.S. Coast Guard approved personal flotation devices.

Note: The following exceptions will apply:

- (i) When water is known to be chest-deep or less on the exposed worker(s);
- (ii) When the employee is protected by standard guardrails;
- (iii) When the employee is protected by a safety belt or lanyard; or
- (iv) When the employee is within the confines of the cabin of a boat or other equivalent enclosure.

(b) Prior to and after each use, buoyant work devices shall be inspected for defects which would alter their strength or buoyancy. Defective units shall not be used.

(3) Protection from noise. The hearing protection requirements of the general occupational health standards, chapter 296-62 WAC, shall apply.

(4) Respiratory protection. The respiratory protection requirements of the general occupational health standards, chapter 296-62 WAC, shall apply.

#### AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

**WAC 296-155-140 SANITATION.** (1) Potable water.

(a) An adequate supply of potable water shall be provided in all places of employment.

(b) Portable containers used to dispense drinking water shall be capable of being tightly closed and equipped with a tap. Water shall not be dipped from containers.

(c) Any container used to distribute drinking water shall be clearly marked as to the nature of its contents and not used for any other purpose.

(d) The common drinking cup is prohibited.

(e) Where single service cups (to be used but once) are supplied, both a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided.

(f) All water containers used to furnish drinking water shall be thoroughly cleaned at least once each week or more often as conditions require.

(g) The requirements of this subsection do not apply to mobile crews or to normally unattended work locations as long as employees working at these locations have transportation immediately available, within the normal course of their duties, to nearby facilities otherwise meeting the requirements of this section.

(h) The following definitions apply:

(i) Mobile crew: A work crew that routinely moves to a different work location periodically. Normally a mobile crew is not at the same location all day.

(ii) Normally unattended work location: An unattended site that is visited occasionally by one or more employees.

(iii) Nearby facility: A sanitary facility that is within three minutes travel by the transportation provided.

(2) Wash water.

(a) Clean, tepid wash water, between 70 and 100 degrees Fahrenheit, shall be provided at all construction sites.

(b) Individual hand towels shall be provided. Both a sanitary container for the unused towels and a receptacle for disposal of used towels shall be provided.

(c) Hand soap, industrial hand cleaner or similar cleansing agents shall be provided. Cleansing agents shall be adequate to remove any paints, coatings, herbicides, insecticides or other contaminants.

(d) The requirements of this subsection do not apply to mobile crews or to normally unattended work locations as long as employees working at these locations have transportation immediately available, within the normal course of their duties, to nearby facilities otherwise meeting the requirements of this section.

(e) Gasoline or solvents shall not be used for personal cleaning.

(f) Wash water areas will be maintained in a dry condition. Slipping or other hazards shall be eliminated from the wash water area before it is acceptable for use.

(3) Nonpotable water.

(a) Outlets for nonpotable water, such as water for industrial or firefighting purposes only, shall be identified by signs meeting the requirements of Part E of this chapter, to indicate clearly that the water is unsafe and is not to be used for drinking, washing or cooking purposes.

(b) There shall be no cross-connection, open or potential, between a system furnishing potable water, a system furnishing nonpotable water or a system furnishing wash water.

(4) Toilets.

(a) The provisions of this section apply to both portable chemical toilets and to flush toilets, except where flush toilets are used the requirements of WAC 296-24-12007 (1)(a) shall apply instead of (b) of this subsection.

(b) Accessible toilets shall be provided for employees according to the following table:

TABLE B-1

| Number of Employees | Toilets Required  |
|---------------------|---|
| 1 - 10              | 1   |
| 11 - 25             | 2   |
| 26 - 40             | 3   |
| 41 - 60             | 4   |
| 61 - 80             | 5   |
| Over 80             | one additional toilet for each additional twenty employees or any fraction thereof. |

((b)) (c) When the employer provides both flush and portable chemical toilets, the number of employees allowed to be served by the flush toilets, per WAC 296-24-12007 (1)(a) will be calculated. That number will be subtracted from the total number of employees and the employer will be required to provide an adequate number of portable chemical toilets for the number of remaining employees, as required by (b) of this subsection.

(d) Toilets shall be maintained in clean, sanitary and functional condition. Internal latches shall be provided to secure the units from inadvertent entry. Where there are twenty or more employees consisting of both sexes, facilities shall be provided for each sex.

(i) Each unit shall be properly cleaned on a routine basis.

(ii) Chemicals, toilet tissue and sanitary seat covers shall be maintained in a supply sufficient for use during the entire shift.

(iii) Any defective or inadequate unit shall be immediately removed from service.

((e)) (e) Specifications. The following specifications apply:

(i) A noncaustic chemical toilet (portable chemical toilet) is a self-contained unit equipped with a waste receiving chemical holding container.

(ii) Portable chemical toilets consisting of only a holding tank, commonly referred to as "elevator units" or "elevator toilets" are not acceptable. "Elevator units" may be used if they are individually located in a lockable room which affords privacy. When this type unit is used in a private individual lockable room the entire room will be considered a toilet facility, as such the room will meet all requirements of toilet facilities and be inspected in accordance with subsection (5)(b)(iii) of this section.

(iii) Rooms, buildings or shelters housing toilets shall be of sound construction, easy to clean, provide shelter and provide privacy. The toilet rooms shall be ventilated to the outside and adequately lighted. All openings into the toilet room shall be covered with 16-mesh screen.

((f)) (iv) Toilets shall be serviced on a regular schedule. Servicing shall include the use of a disinfectant for cleaning urinals and seats, removing waste from containers, recharging containers with an odor controlling chemical and installing an adequate supply of toilet tissue and seat covers.

((g)) (v) Service shall be performed in accordance with local codes by approved servicing organizations. Waste shall be disposed of or discharged in accordance with requirements of local health department regulations.

((h)) (vi) Waste containers shall be fabricated from impervious materials, e.g. plastic, steel, fiberglass or their equivalent. Containers shall be water tight and capable of containing the chemical waste in a sanitary manner. The container shall be fitted to the building in a manner so as to prevent insects from entering from the exterior of the building. Containers shall be adequate in size to be used by the number of persons, according to the schedule for minimum requirements,

without filling the container to more than half of its volume before regularly scheduled servicing.

((i)) (vii) Removal of waste shall be handled in a clean and sanitary manner by means of a vacuum hose and received by a leak-proof tank truck. All valves on the tank shall be leak-proof.

((j)) (viii) Provisions shall be made so service trucks have a clear approach and convenient access to the toilets to be serviced.

((k)) (ix) Disposal of waste from tank trucks shall be in accordance with local health department requirements. In the absence of provisions by local health departments, waste must be disposed of through municipal or district sanitary sewage systems. Municipal or area sanitary sewage districts shall provide sewage disposal locations and facilities which are adequate and convenient for duly authorized toilet service organizations.

((l)) (f) The requirements of this subsection do not apply to mobile crews or to normally unattended work locations as long as employees working at these locations have transportation immediately available, within the normal course of their duties, to nearby facilities otherwise meeting the requirements of this section.

(5)(a) On multi-employer worksites, the prime contractor shall ensure that the requirements of this section are met. Each employer is responsible for seeing that facilities for their own employees are provided.

(b) Each employer shall ensure, at the beginning of each shift, that the sanitation facilities required by this section are inspected. If any facility or unit fails to meet the following requirements, immediate corrective action shall be taken. Such action shall be documented and maintained at the site for at least 72 hours. Inspection shall establish:

(i) Potable water: Sufficient supply of water, sufficient supply of cups, container integrity, cleanliness of unit and area, capacity of trash receptacle (empty).

(ii) Wash water: Sufficient supply of clean water, proper temperature, sufficient supply of towels, sufficient supply of cleansing agents, container integrity, cleanliness of unit and area without the presence of physical hazards, capacity of trash receptacle (empty).

(iii) Toilets: Sufficient supply of toilet tissue and sanitary seat covers, capacity and condition of chemical agent, capacity and condition of holding tank, cleanliness of unit and area without the presence of physical hazards, physical and structural condition of unit, condition of lock, condition of toilet seat and tissue holder, absence of all foreign debris.

(c) The location of the facilities required by subsections (1), (2) and (4) of this section shall be as close as practical to the highest concentration of employees.

(i) On multistory structures they shall be furnished on every third floor.

(ii) At all sites they shall be located within 200 feet horizontally of all employees.

(iii) The requirements of subsection (5)(c)(i) and (ii) do not apply to mobile crews or to normally unattended work locations as long as employees working at these locations have transportation immediately available, within the normal course of their duties, to nearby facilities otherwise meeting the requirements of this section.

(6) Food handling. All employees' food service facilities and operations shall meet the applicable laws, ordinances and regulations of the jurisdictions in which they are located.

(7) Temporary sleeping quarters. When temporary sleeping quarters are provided, they shall be heated, ventilated and lighted.

## NEW SECTION

### WAC 296-155-180 HAZARD COMMUNICATION. General.

The employer shall develop and maintain a hazard communication program as required by WAC 296-62-054 through 296-62-05427 which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

### AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-205 HEAD PROTECTION. (1) ((All persons on any construction site shall wear protective helmets. Employers shall provide protective helmets at no cost to the employee.)) Each employee on any construction site must be provided an individual hard hat which meets all requirements of (a) and (b) of this subsection. All persons shall wear a hard hat on any construction site whenever there is a potential exposure to danger of flying or falling objects to persons working in or occupying the area. All persons must have their individual

hard hats on site and readily available at all times. An individual hard hat may be removed whenever there is no potential exposure to hazard.

(a) Helmets for the protection of employees against impact and/or penetration of falling and flying objects shall meet the specifications contained in American National Standards Institute, Z89.1-1969, Safety Requirements for Industrial Head Protection.

(b) Helmets for the head protection of employees exposed to high voltage electrical shock and burns shall meet the specifications contained in American National Standards Institute, Z89.2-1971.

(2) Caps with metal buttons or metal visors shall not be worn around electrical hazards.

(3) Persons working near moving machinery or in locations which present a hair-catching or fire hazard shall wear caps, nets or other head and face protection that will completely contain the hair.

(4) Employers of members of the Old Order Amish or the Sikh Dharma Brotherhood will not be cited for the failure to provide head protection and requiring these members to wear head protection provided these members have so notified their employer of their religious objection to the wearing of hard hats, in writing.

(5) Employees working on asphalt paving crews when they are exposed to extreme temperatures from hot mix and when they are not exposed to falling objects need not wear protective helmets. Flaggers working in conjunction with asphalt paving operations shall wear protective helmets.

#### AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

**WAC 296-155-212 FOOT PROTECTION.** (1) Substantial foot-wear, made of leather or other equally firm material, shall be worn by employees in any occupation in which there is a danger of injury to the feet through falling or moving objects, or from burning, scalding, cutting, penetration, or like hazard.

(a) The soles and heels of such footwear shall be of a material that will not create a slipping hazard.

(b) Shoes made of leather or other firm materials that have soft athletic-type soles which would protect employees from foot injuries and at the same time, provide soft and firm footing while working under specialty requirements or with specialty materials are acceptable if meeting safety shoe requirements established by OSHA or ANSI.

(c) Footwear that has deteriorated to a point where it does not provide the required protection shall not be used.

(2) Calks or other suitable footwear, which will afford reasonable protection from slipping, shall be worn while working on logs, poles, pilings, or similar forest products.

(3) Traditional tennis shoes, shoes with canvas tops, or thin or soft soled athletic shoes, open toed sandals, slippers, dress shoes or other similar type shoes shall not be worn. Soft or athletic-type soles with uppers of leather or other substantial material may be used where firm footing is desired and where minimal danger of injury to feet from falling or moving objects.

#### AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

**WAC 296-155-305 SIGNALING.** ((+)) Flaggers.

((+)) (1) When operations are such that signs, signals, and barricades do not provide the necessary protection on or adjacent to a highway or street, flaggers or other appropriate traffic controls shall be provided.

((+)) (2) Signaling directions by flaggers shall conform to American National Standards Institute D6.1-1978, Manual on Uniform Traffic Control Devices for Streets and Highways, as amended by the Washington state department of transportation. (M24-01 (HT).)

((+)) (3) Hand signaling by flaggers shall be by use of sign paddles at least 18 inches in diameter with series "C" letters at least 6 inches high or lights approved by the transportation commission. When hand signaling is done in periods of darkness, the sign paddles must be reflectorized or illuminated as required by ANSI D6.1-1978, Manual on Uniform Traffic Control Devices. The "STOP" side of the paddle shall have a red background with white lettering. When a paddle has a "SLOW" side, the background shall be orange and the lettering black. Colors shall conform to ANSI D6.1 current edition.

((+)) (4) Flaggers shall wear an orange warning garment and a yellow protective helmet while flagging. Warning garments worn at night shall be of reflectorized material. Yellow is specified as the color of helmets; the issue is clearly one of high visibility. Other colors providing equal visibility than the specified yellow will be acceptable. The iridescent or reflectorized hard hats, available in several colors, which

provide "high visibility" in both day and night applications, will meet standard specifications.

((+)) (5) Each flagger shall have in their possession a valid certificate of completion of an approved flagging course.

Note: Personnel that have not completed a flagging course may be assigned duties as flaggers only during emergencies when a sudden, generally unexpected, set of circumstances demands immediate attention.

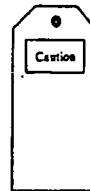


TABLE E-1

|  |  |   |   |
|--|--|---|---|
| White tag—<br>White letters<br>on red square | White tag—<br>White letters<br>on red oval | Yellow tag—<br>Yellow letters<br>on a black<br>background | White tag—<br>White letters<br>on black<br>background |
|--|--|---|---|

| Basic Stock<br>(Background) | Safety Colors<br>(Ink) | Copy<br>Specification<br>(Letters) |
|-----------------------------|------------------------|------------------------------------|
| White                       | Red                    | Do Not Operate                     |
| White                       | Black and Red          | Danger                             |
| Yellow                      | Black                  | Caution                            |
| White                       | Black                  | Out of Order—<br>Do Not Use        |

#### AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

**WAC 296-155-36313 OPERATION.** (1) Acceptable tools. Only tools meeting the requirements of this standard shall be used.

(2) Qualified operators. Only qualified operators shall operate tools.

(3) Use lowest velocity. The lowest velocity class of tool that will properly set the fastener shall be used.

(4) Operating limitations. Tools shall be operated in strict accordance with the manufacturer's instructions.

(5) Personal protection. Eye or face protection, or both, shall be worn by operators, assistants, and adjacent personnel when tool is in use. Hearing protection shall be used when making fastenings in confined areas.

(6) Daily inspections. Each day, prior to use, the operator shall inspect the tool to determine that it is in proper working condition in accordance with the testing methods recommended by the manufacturer of the tool.

(7) Defective tools. Any tool found not to be in proper working condition shall be immediately removed from service and tagged "DEFECTIVE"; it shall not be used until it has been properly repaired in accordance with the manufacturer's instructions.

(8) Proper accessories. The proper shield, fixture, adapter, or accessory, suited for the application, as recommended and supplied by the manufacturer, shall be used.

(9) Proper loads and fasteners. Only those types of fasteners and power loads recommended by the tool manufacturer shall be used.

(10) Questionable material. Before fastening into any questionable material, the operator shall determine its suitability by using a fastener as a center punch. If the fastener point does not easily penetrate, is not blunted, and does not fracture the material, initial test fastenings shall then be made in accordance with the tool manufacturer's recommendations. (See WAC 296-155-36315(3).)

(11) Tool safety. No tool shall be loaded unless it is being prepared for immediate use. If the work is interrupted after loading, the tool shall be unloaded at once.

(12) Powder actuated magazine or clip-fed tools are not considered loaded unless a power load is actually in the ram (firing chamber),

even though the magazine or clip is inserted in the tool. If work is interrupted, the firing chamber shall be cleared and the magazine or clip removed.

((13)) (13) Pointing tools. Tools shall not be loaded until just prior to the intended firing time. Neither loaded nor empty tools are to be pointed at any person; hands shall be kept clear of the open barrel end.

((14)) (14) Tool perpendicular to work. The tool shall always be held perpendicular to the work surface when fastening into any material, except for specific applications recommended by the tool manufacturer.

((15)) (15) Misfires. In the event of a misfire, the operator shall hold the tool firmly against the work surface for a period of thirty seconds and then follow the explicit instructions set forth in the manufacturer's instructions.

((16)) (16) Different power levels. Power loads of different power levels and types shall be kept in separate compartments or containers.

((17)) (17) Signs. A sign, at least 20 x 25 cm (8 x 10 in), using boldface type no less than 2.5 cm (1 in) in height, shall be posted in plain sight on all construction projects where tools are used. The sign shall bear wording similar to the following: "POWDER ACTUATED TOOL IN USE."

#### AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-370 WOODWORKING TOOLS. (1) Speeds. No saw shall be operated in excess of the manufacturers recommended speed.

(2) Guarding. All portable, hand held power-driven circular saws shall be equipped with guards above and below the base plate or shoe. The upper guard shall cover the saw to the depth of the teeth, except for the minimum arc required to permit the base to be tilted for bevel cuts. The lower guard shall cover the saw to the depth of the teeth, except for the minimum arc required to allow proper retraction and contact with the work. When the tool is withdrawn from the work, the lower guard shall automatically and instantly return to the covering position.

(3) Hand-fed table saws.

(a) Each circular hand-fed table saw shall be provided with a hood-type guard that will cover the blade at all times when the blade is not in use. This may be accomplished by the use of a guard that will automatically adjust to the thickness of the material being cut, or by a fixed or manually adjusted guard. If a fixed or manually adjusted guard is used, the space between the bottom of the guard and the material being cut shall not exceed 3/8 inch if 1-1/2 inches or more from the blade, and 1/4 inch if closer than 1-1/2 inches.

(b) When the blade is in use, the hood-type guard shall enclose that portion of the blade above the material.

(c) Hood-type guards shall be so designed and constructed as to resist blows and strains incidental to reasonable operation, adjusting, and handling, in order to protect the operator from flying splinters and broken saw teeth.

(d) The hood shall be so mounted as to ensure that its operation will be positive, reliable, and in alignment with the saw. The mounting shall be adequate to resist any reasonable side thrust or other force that would disrupt alignment.

(e) Where a hood-type guard cannot be used because of unusual shapes or cuts, a jig or fixture that will provide equal safety for the operator shall be used. On the completion of such operations, the guard shall be immediately replaced.

(f) A push stick shall be used on short or narrow stock when there is a possibility of the hand contacting the cutting tool.

(g) Each hand-fed circular ripsaw shall be equipped with a spreader to minimize the possibility of material squeezing the saw or of material kickbacks. The spreader shall be made of tempered steel, or its equivalent, and shall be slightly thinner than the saw kerf. It shall be of sufficient width to provide adequate stiffness or rigidity to resist any reasonable side thrust or blow tending to bend or throw it out of position. The spreader shall be attached so that it will remain in true alignment with the blade, even when either the saw or table is tilted, and should be placed so that there is not more than 1/2-inch space between the spreader and the back of the blade when the recommended saw blade is in its maximum "up" position. If a blade smaller than the maximum permissible size is used, the spreader shall be moved to within 1/2 inch of the blade. The provision of a spreader in connection with grooving, dadoing, or rabbeting is not required. On the completion of such operations, the spreader shall be immediately replaced.

(h) Each hand-fed circular ripsaw shall be provided with antikickback devices so located as to oppose the thrust or tendency of the saw

blade to pick up the material or throw it back toward the operator. These devices shall be designed to provide holding power for all the thicknesses of material being cut.

(4) Radial saws.

(a) Hoods and guards. Each saw shall be provided with a device that will completely enclose the upper portion of the blade down to a point that includes the end of the saw arbor. The upper hood shall be so constructed as to protect the operator from flying splinters and broken saw teeth, and to deflect sawdust away from the operator. The sides of the lower exposed portion of the saw blade shall be guarded from the tips of the blade teeth inward radially with no greater than 3/8-inch gullet exposure. The device shall automatically adjust itself to the thickness of the stock and remain in contact with the stock being cut for the 90° blade positions (0° bevel) throughout the full working range of miter position. A permanent label not less than 1-1/2 inches X 3/4 inch shall be affixed to the guard visible from the normal operating position, reading as follows:

**WARNING: TO AVOID INJURY, SHUT OFF POWER BEFORE CLEARING A JAMMED LOWER GUARD**

Such a label shall be colored standard danger red or orange in accordance with American National Standard Safety Color Code for Marking Physical Hazards, Z53.1-1979.

(b) Spreaders. When radial saws are used for ripping, a spreader shall be provided and shall be aligned with the saw blade.

(c) Antikickback devices. Antikickback devices located on both sides of the saw blade on the outfeed side, so as to oppose the thrust or tendency of the blade to pick up the material or to throw it back toward the operator, shall be used on each radial saw used for ripping. These devices shall be designed to provide adequate holding power for all the thicknesses of material being cut.

(d) Adjustable stops and return devices. An adjustable stop shall be provided to prevent the forward travel of the blade beyond the position necessary to complete the cut ((in repetitive operations)). A limit chain or other equally effective device shall be provided to prevent the saw blade from sliding beyond the edge of the table; or the table shall be extended to eliminate over-run.

(e) On any manually operated saw, installation shall be such that the front of the machine is slightly higher than the rear, or some other means shall be provided so that the cutting head will not roll or move out on the arm away from the column as a result of gravity or vibration. A permanent label not less than 1-1/2 inches X 3/4 inch shall be affixed to the cutting head visible from the normal crosscut operating position, reading as follows:

**WARNING: TO AVOID INJURY, RETURN CARRIAGE TO THE FULL REAR POSITION AFTER EACH CROSSCUT TYPE OF OPERATION**

Such a label shall be colored standard caution yellow in accordance with American National Standard Z53.1-1979.

(f) Direction of feed. Ripping and ploughing shall be against the direction in which the saw blade turns. The direction of the saw blade rotation shall be conspicuously marked on the hoods. In addition, a permanent label not less than 1-1/2 inches X 3/4 inch shall be affixed to the end of the guard at which the blade teeth exit the upper guard during operation. The label shall be at approximately the level of the arbor and shall read as follows:

**DANGER: TO AVOID INJURY, DO NOT FEED MATERIAL INTO CUTTING TOOL FROM THIS END**

Such a label shall be colored standard red or orange in accordance with American National Standard, Z53.1-1979.

(5) All woodworking tools and machinery shall meet any other applicable requirements of American National Standards Institute, O1.1-1971, Safety Code for Woodworking Machinery.

(6) The control switch on all stationary radial arm saws shall be placed at the front of the saw or table and shall be properly recessed or hooded to prevent accidental contact.

(a) A firm level working area shall be provided at the front of all stationary radial arm saws. The area shall be kept free of all stumbling hazards.

(b) A push stick or similar device shall be used for pushing short material through power saws.

(7) Circular power miter saws. The requirements of subsection (4)(a) of this section applies to guarding circular power miter saws.

(8) Personal protective equipment. All personal protective equipment required for use shall conform to the requirements of Part C of this chapter.

**AMENDATORY SECTION** (Amending Order 86-14, filed 1/21/86)

**WAC 296-155-48529 BOOM SUPPORTED ELEVATING WORK PLATFORMS.** (1) All applicable rules for design, construction, maintenance, operation, testing and use of boom supported elevating work platforms shall be in accordance with ANSI A92.5-1980.

(2) Minimum rated work load. The minimum rated work load of a work platform shall be three hundred pounds. Either single or multiple ratings may be used.

(a) Work platforms with single ratings shall include means which clearly present the rated work load to the operator at the platform control station.

(b) Work platforms having multiple configurations with multiple ratings shall have means which clearly describe the rated work load of each configuration to the operator at the platform control station. Examples of multiple configurations are:

(i) Outriggers extended to firm footing versus outriggers not extended.

(ii) Large platform versus small platform.

(iii) Extendable boom retracted versus extended.

(iv) Boom elevated versus lowered.

(v) Extendable axles extended versus retracted.

(3) Boom angle indicator: When the rated capacity of the alternate configuration depends on the angle the boom makes with the horizontal, the manufacturer shall install means by which that angle can be determined. Such means shall be clearly displayed to the operator at the platform control station.

(4) Structural safety.

(a) All load-supporting structural elements of the work platform shall have a structural safety factor of not less than two to one based on the minimum yield strength of the materials used.

(b) The load-supporting structural elements of the work platform that are made of nonductile material which will not deform plastically before breaking shall have a structural safety factor of not less than five to one based on the minimum ultimate strength of the materials used.

(c) The design stress used in determining the structural safety factor shall be the maximum stresses developed within the element with the machine operating at its rated work load, used in the type of service for which it was designed, and operated in accordance with manufacturer's operation instructions.

(d) The design stress shall include the effects of stress concentration and dynamic loading as shown in ANSI A92.5-1980.

(5) Platform stability.

(a) Each work platform shall be capable of maintaining stability while sustaining a static load equal to one and one-third times its rated work load, concentrated anywhere twelve inches inside the perimeter of the platform, throughout its entire range of motion while on a slope of five degrees from the horizontal in the direction most likely to cause overturning.

(i) If having the outriggers, stabilizers, or extendable axles in contact with the supporting surface is part of the normal configuration to meet the stability requirements, they shall be extended.

(ii) A visual inspection shall be made to determine whether this test has produced an adverse effect on any component.

(b) Each work platform shall sustain on level ground a test load equal to one and one-half times its rated work load throughout the entire range of motion in which the boom can be placed.

(i) The test load shall be placed with its center of gravity twelve inches inboard from the guardrail while the unit is in the least stable position.

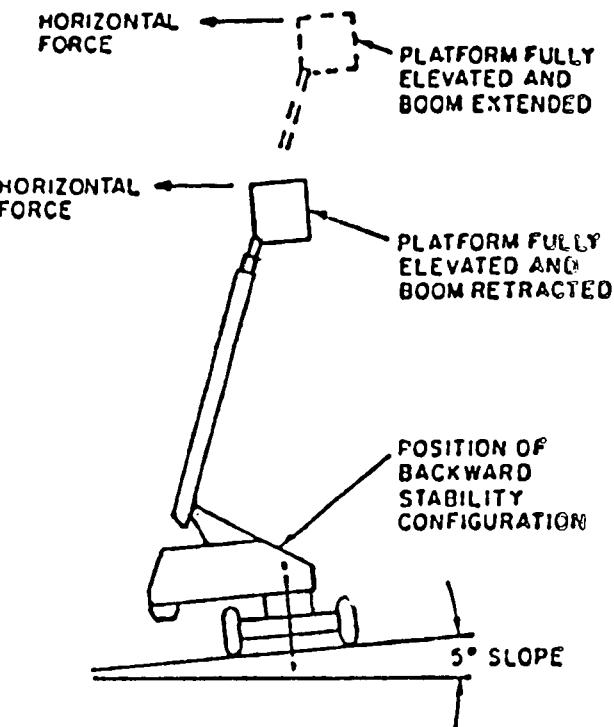
(ii) The work platform shall remain stable during this test.

(iii) A visual inspection shall be made to determine whether this test has produced an adverse effect on any component.

(c) Each work platform shall be capable of maintaining stability when positioned on a five degree slope in its backward stability configuration in the direction and condition most likely to cause overturning, while sustaining a horizontal force of one hundred fifty pounds or fifteen percent of rated capacity, whichever is greater, applied to the upper perimeter of the platform in the direction most likely to cause overturning (see Fig. 1). Note that the most adverse condition may be with zero or with rated work load (concentrated one foot inside perimeter of platform), depending on basket configuration.

(i) If having the outriggers, stabilizers, or extendable axles in contact with the supporting surface is part of the normal configuration to meet stability requirements, they shall be extended.

(ii) A visual inspection shall be made to determine whether this test has produced an adverse effect on any component.



**Fig. 1**  
**Backward Stability - Typical Test Condition**

(6) Work platform design requirement. The work platform shall be provided with a guardrail or other structure approximately forty-two inches plus or minus three inches high around its upper periphery, with a midrail, and with toeboards not less than four inches high. Guardrails and midrail chains or the equivalent may be substituted across an access opening.

(a) All stepping, standing, and working surfaces shall be skid resistant.

(b) Attachment points shall be provided for a body belt and lanyard for each person occupying the platform.

(7) Work platform controls. Work platforms shall have both primary and secondary controls.

(a) Primary controls shall be readily accessible to the operator on the platform.

(b) Secondary controls shall be designed to override the primary controls and shall be readily accessible from ground level.

(c) Both primary and secondary controls shall be clearly marked, using permanent legible identification which can be easily understood.

(d) All directional controls shall move in the direction of the function which they control when possible, and shall be of the type which automatically returns to the "off" or the neutral position when released.

(e) Such controls shall be protected against inadvertent operation.

(8) Outrigger interlocks. Where the work platform is equipped with outriggers, stabilizers, or extendable axles, interlocks shall be provided to ensure that the platform cannot be positioned beyond the maximum travel height unless the outriggers, stabilizers, or extendable axles are properly set. Control circuits shall ensure that the driving motor(s) cannot be activated unless the outriggers or stabilizers are disengaged and the platform has been lowered to the maximum travel height (MTH).

(9) Auxiliary operating means: All work platforms shall be provided with an auxiliary means of lowering, retracting, and rotating in the event of primary power loss.

(10) Emergency stop: All work platforms shall be equipped with an emergency stop device, readily accessible to the operator, which will effectively de-energize all powered systems in case of a malfunction.

(11) Tilt alarm: All work platforms shall be fitted with an alarm or other suitable warning at the platform, which will be activated automatically when the machine base is more than five degrees out of level in any direction.

(12) System safety factors.

(a) Where the platform is supporting its rated work load by a system of wire ropes or lift chains, or both, the safety factor of the wire rope or chain shall not be less than eight to one, based on ultimate strength.

(b) All critical components and hoses of hydraulic and pneumatic systems shall have a minimum bursting strength of four times the operating pressure for which the system is designed.

(c) Noncritical components shall have a minimum bursting strength of two times the operating pressure for which the system is designed.

(d) Critical components are defined as those in which a malfunction would result in a free descent of the platform.

(13) Failsafe requirements.

(a) Where the elevation of the platform is accomplished by an electromechanical assembly, the system shall be so designed as to prevent free descent in the event of a generator or power failure.

(b) Where the elevation of the platform is accomplished by a hydraulic or pneumatic cylinder assembly, the system shall be so equipped as to prevent free descent in the event a hydraulic or pneumatic line bursts.

(c) Hydraulically or pneumatically actuated outriggers or stabilizers, or both, shall be so designed as to prevent their retraction in the event a hydraulic or pneumatic line bursts.

(14) Engine requirement.

(a) Fuel lines of internal-combustion-engine-powered work platforms shall be supported to keep chafing to a minimum and located to keep exposure to engine and exhaust heat to a minimum.

(b) Liquid fuel lines shall be hard except where flexible connections are required for isolation from vibration.

(c) LP gas fuel systems shall use flexible LP gas hose or hard lines.

(d) Exhaust lines shall be equipped with mufflers and shall be located to minimize the exposure to noise and fumes of operators and personnel located in the proximity of such units.

(15) Specifications display. There shall be displayed on all work platforms, in a permanent manner, at a readily visible location, the following information:

(a) Special warnings, cautions, or restrictions necessary for safe operation in accordance with ANSI Z35.1-1972 and Z35.4-1973.

(b) Make, model, serial number, and manufacturer's name and address.

(c) Rated work load.

(d) Maximum platform height and maximum travel height.

(e) Reference to studying operating instructions in manual before use.

(f) Alternative configuration statement. If a work platform is capable of several alternative configurations and loads, the alternatives shall be clearly described.

(g) A clear statement of whether or not the platform and its enclosure are electrically insulated. If they are electrically insulated, the voltage at which the platform is rated and the applicable test standard shall be stated.

(h) The rated work load shall be clearly displayed at each entrance to the platform and the operator control station.

(16) Lift manual requirements. Each work platform shall be provided with a manufacturers manual(s) containing the following information:

(a) Descriptions, specifications, and ratings of the work platform, including the data specified in subsection (17) of this section.

(b) The maximum hydraulic operating pressure and the maximum voltage of the electrical systems which are part of the platform.

(c) Instructions regarding operation, safety rules, maintenance, and repair.

(d) Replacement parts information.

(17) Inspection and maintenance.

(a) Each work platform shall be inspected, maintained, repaired, and kept in proper working condition in accordance with the manufacturer's maintenance and repair manuals.

(b) Any work platform found not to be in safe operating condition shall be removed from service until repaired.

(c) All repairs shall be made by a qualified person in conformance with the manufacturer's maintenance and repair manual(s).

(18) Operator requirements. Only trained and authorized persons shall be permitted to operate the work platform. Before using the work platform, the operator shall:

(a) Be instructed by a qualified person in the intended purpose and function of each of the controls.

(b) Read and understand the manufacturer's operating instructions and safety rules, or be trained by a qualified person on the contents of the manufacturer's operating instructions and safety rules.

(c) Understand by reading or by having a qualified person explain all decals, warnings, and instructions displayed on the work platform.

(d) Prior to use on each work shift, the work platform shall be inspected for defects that would affect its safe operation and use. The inspection shall consist of the following:

(i) Visual inspection for cracked welds or other structural defects, hydraulic leaks, damaged control cables, loose wire connections, and tire damage.

(ii) Function test of the operating controls to ensure that they perform their intended functions. Any suspect items shall be carefully examined and a determination made by a qualified person as to whether they constitute a safety hazard. All unsafe items shall be corrected before further use of the work platform.

(iii) Before the work platform is used and during use, the job site shall be checked for hazards such as ditches, dropoffs or holes, bumps and floor obstructions, debris, overhead obstructions and high-voltage conductors, and other possible hazardous conditions.

(19) Requirements for operation. The work platform shall be used only in accordance with the manufacturer's operating instructions and safety rules, ANSI 92.6-1979 and this standard.

(a) Only trained and authorized personnel shall be permitted to operate the work platform.

(b) Before each elevation of the work platform, the operator shall:

(i) Check for overhead obstructions and high-voltage conductors. A minimum distance of ten feet from energized high-voltage conductors shall be maintained at all times between the conductors and the operator and platform equipment.

(ii) Ensure the work platform is elevated only on a firm and level surface.

(iii) Ensure that the load and its distribution on the platform are in accordance with the manufacturer's rated capacity. The manufacturer's rated work load shall never be exceeded.

(iv) Ensure that outriggers or stabilizers are used in accordance with manufacturer's instructions.

(v) Ensure that platform guardrails are properly installed and gates or openings are closed.

(vi) Check to see that all occupants' safety belts are on and properly attached.

((t)) (c) Before and during driving while elevated, the operator shall:

(i) Be required to look in the direction of, and keep a clear view of, the path of travel and make sure that the path is firm and level.

(ii) Maintain a safe distance from obstacles, debris, dropoffs, holes, depressions, ramps, and other hazards to safe elevated travel.

(iii) Maintain a safe distance from overhead obstacles.

((t)) (d) Under all travel conditions the operator shall limit speed according to conditions of ground surface, congestion, slope, location of personnel, and other factors which may create a hazard of collision or injury to personnel.

((t)) (e) Stunt driving and horseplay shall not be permitted.

((t)) (f) Personnel shall maintain a firm footing on the platform while working thereon. Safety harness and lanyard devices fixed to attachment points provided and approved by the manufacturer shall be used by all occupants. Use of railings, planks, ladders, or any other device on the work platform, except as provided in subsection (24) of this section, shall be prohibited.

((t)) (g) The operator shall immediately report to his supervisor any defects or malfunctions which become evident during operation. Any defects or malfunctions that affect the safety of operation shall be repaired prior to continued use of the work platform.

((t)) (h) Altering, modifying, or disabling safety devices or interlocks is prohibited.

((t)) (i) Care shall be taken to prevent ropes, electric cords, hoses, and the like from becoming entangled in the work platform when it is being elevated, lowered, or moved.

((t)) (j) Work platform rated capacities shall not be exceeded when live loads are transferred to the platform at elevated heights.

((n)) (k) The operator shall ensure that the area surrounding the work platform is clear of personnel and equipment before lowering the platform.

(20) Refueling: Fuel tanks shall not be filled while the engine is running. Caution shall be used while filling tanks to avoid spilling fuel.

(21) Battery charging: Batteries shall not be charged except in an open, well ventilated area free of flame, smoking, spark, and fire.

(22) Modifications: There shall be no modification or alteration to work platforms without the modifications being approved and certified in writing by the manufacturer or other equivalent entity, such as a nationally recognized testing laboratory, to be in conformance with all applicable provisions of ANSI A92.5-1980 and this standard.

#### AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-48533 CRANE ((AND FORKLIFT SUSPENDED OR ELEVATED)) OR DERRICK SUSPENDED PERSONNEL PLATFORMS. ((1)) The use of a platform suspended from a crane hook is permissible under the following controlled conditions, provided the hoisting mechanism of the crane or derrick is power-operated in both up and down directions, the crane is on firm footing, uniformly level within one percent, and outriggers on applicable crane carriers are used in a suitable manner:

(a) Boatswain's chairs.

(i) The lanyard of the safety belt or harness shall be secured to the lift line above the headache ball or to the crane hook itself.

(ii) The crane hook shall be moused or provided with a safety latch.

(b) Barrel-type platform.

(i) A solid bar or rod shall be substantially attached in a rigid position to the bottom or side of the platform.

(ii) The bottom of the barrel-type platform shall be of a convex shape to cause the platform to lay on its side when lowered to the ground or floor.

(iii) The bar or rod shall extend a minimum of eight feet above the floor of the platform.

(iv) The occupant of the platform shall wear a safety belt or harness in accordance with WAC 296-155-225 and the lanyard shall be secured to the lift line above the headache ball or to the hook itself.

(v) The hook shall be moused or provided with a safety latch.

(vi) The platform shall be provided with a standard guardrail.

(c) Box-type platform.

(i) Lifting bridles on box-type platforms shall consist of four legs of equal length, with one end securely attached to each corner of the platform and the other end securely attached to a common ring, shackle, or other equivalent device to accommodate the crane hook, or a strap to the crane hook.

(ii) The platform shall be provided with a standard guardrail and toe board on all open sides.

(iii) The occupants shall wear a safety belt or harness in accordance with WAC 296-155-225 and the lanyard shall be substantially secured to the platform or guardrail of the platform.

(iv) A substantial safety line shall pass through the eye of each leg of the bridle and securely fastened with a minimum amount of slack to the lift line above the headache ball or to the crane hook itself.

(v) The crane hook shall be moused or provided with a safety latch.

(vi) The platform shall be constructed with a minimum five to one safety factor with an allowance of five hundred pounds for the first person with light tools, and an additional two hundred fifty pounds for each additional person.

(vii) The platform shall be marked for maximum occupancy.

(d) Rescue platform: If the platform is used as a rescue vehicle:

(i) The injured worker shall be strapped into the stretcher or basket.

(ii) A safety lanyard attached to the stretcher or basket as well as to the platform itself.

(iii) The safety lanyard shall meet the requirements of WAC 296-155-225.

(e) Multiple-part line block: When a multiple-part line block is in use, a substantial strap shall be used between the crane hook and common ring, shackle, or other equivalent device, to eliminate employee exposure to the lines running through the block, and to the block itself.

(f) Hand signals: The standard hand signals, to the operator, shall be in accordance with WAC 296-155-525 (1)(c), unless voice communication equipment (telephone, radio, or equivalent) is utilized. Signals shall be discernible or audible at all times.

(g) All shackle pins shall be secured in place by an appropriate means.

(2) When a forklift truck is used for elevating workers a platform shall be specifically built for that purpose and shall comply with the following requirements:

(a) The platform shall be securely attached to the forks and shall have standard guardrails and toeboards on all open sides.

(b) The hydraulic system of the forklift shall be so designed that the lift mechanism will not drop faster than one hundred thirty-five feet per minute in the event of a failure in any part of the system. Forklifts used for elevating platforms shall be identified that they are so designed:

(c) A safety strap shall be installed or the control lever shall be locked to prevent the boom from tilting.

(d) An operator shall be at the controls of the forklift equipment while persons are on the platform.

(e) The operator shall be in the normal operating position while raising or lowering the platform.

(f) The vehicle shall not travel from point to point while persons are on the platform except that inching or maneuvering at very slow speed is permissible.

(g) The area between persons on the platform and the mast shall be adequately guarded to prevent contact with chains or other shear points.

(h) All platforms shall be visually inspected daily or before each use by the person in charge of the work being performed, and shall be tested as frequently as is necessary to maintain minimum safety factors.) (1) Scope, application, and definitions.

(a) Scope and application. This standard applies to the design, construction, testing, use and maintenance of personnel platforms, and the hoisting of personnel platforms on the load lines of cranes or derricks.

(b) Definitions. For the purposes of this section, the following definitions apply:

(i) "Failure" means load refusal, breakage, or separation of components.

(ii) "Hoist" (or hoisting) means all crane or derrick functions such as lowering, lifting, swinging, booming in and out or up and down, or suspending a personnel platform.

(iii) "Load refusal" means the point where the ultimate strength is exceeded.

(iv) "Maximum intended load" means the total load of all employees, tools, materials, and other loads reasonably anticipated to be applied to a personnel platform or personnel platform component at any one time.

(v) "Runway" means a firm, level surface designed, prepared, and designated as a path of travel for the weight and configuration of the crane being used to lift and travel with the crane suspended platform. An existing surface may be used as long as it meets these criteria.

(2) General requirements. The use of a crane or derrick to hoist employees on a personnel platform is prohibited, except when the erection, use, and dismantling of conventional means of reaching the worksite, such as a personnel hoist, ladder, stairway, aerial lift, elevating work platform or scaffold, would be more hazardous, or is not possible because of structural design or worksite conditions.

(3) Cranes and derricks.

(a) Operational criteria.

(b) Hoisting of the personnel platform shall be performed in a slow, controlled, cautious manner with no sudden movements of the crane or derrick, or the platform.

(c) Load lines shall be capable of supporting, without failure, at least seven times the maximum intended load, except that where rotation resistant rope is used, the lines shall be capable of supporting without failure, at least ten times the maximum intended load. The required design factor is achieved by taking the current safety factor of 3.5 (required under WAC 296-155-525 (3)(b)) and applying the fifty percent derating of the crane capacity which is required by (g) of this subsection.

(d) Load and boom hoist drum brakes, swing brakes, and locking devices such as pawls or dogs shall be engaged when the occupied personnel platform is in a stationary working position.

(e) The load line hoist drum shall have a system or device on the power train, other than the load hoist brake, which regulates the lowering rate of speed of the hoist mechanism (controlled load lowering). Free fall is prohibited.

(f) The crane shall be uniformly level within one percent of level grade and located on firm footing. Cranes equipped with outriggers shall have them all fully deployed following manufacturer's specifications, insofar as applicable, when hoisting employees.

(g) The total weight of the loaded personnel platform and related rigging shall not exceed fifty percent of the rated capacity for the radius and configuration of the crane or derrick.

(h) The use of machines having live booms (booms in which lowering is controlled by a brake without aid from other devices which slow the lowering speeds) is prohibited.

(i) Multiple-part line block: When a multiple-part line block is in use, a substantial strap shall be used between the crane hook and common ring, shackle, or other equivalent device, to eliminate employee exposure to the lines running through the block, and to the block itself.

(4) Instruments and components.

(a) Cranes and derricks with variable angle booms shall be equipped with a boom angle indicator, readily visible to the operator.

(b) Cranes with telescoping booms shall be equipped with a device to indicate clearly to the operator, at all times, the boom's extended length, or an accurate determination of the load radius to be used during the lift shall be made prior to hoisting personnel.

(c) A positive acting device shall be used which prevents contact between the load block or overhaul ball and the boom tip (anti-two-blocking device), or a system shall be used which deactivates the hoisting action before damage occurs in the event of a two-blocking situation (two block damage prevention feature).

(5) Rigging.

(a) Lifting bridles on box-type platforms shall consist of four legs of equal length, with one end securely shackled to each corner of the platform and the other end securely attached to a common ring, shackle, or other equivalent device to accommodate the crane hook, or a strap to the crane hook.

(b) Shackle bolts used for rigging of personnel platforms shall be secured against displacement.

(c) A substantial safety line shall pass through the eye of each leg of the bridle adjacent to the common ring, shackle, or equivalent device.

(d) Securely fastened with a minimum amount of slack to the lift line above the headache ball or to the crane hook itself.

(e) All eyes in wire rope slings shall be fabricated with thimbles.

(f) Wire rope, shackles, rings, master links, and other rigging hardware must be capable of supporting, without failure, at least five times the maximum intended load applied or transmitted to that component. Where rotation resistant wire rope is used for slings, they shall be capable of supporting without failure at least ten times the maximum intended load.

(g) Hooks on headache ball assemblies, lower load blocks, or other attachment assemblies shall be of a type that can be closed and locked, eliminating the hook throat opening. Alternatively, an alloy anchor type shackle with a bolt, nut and retaining pin may be used, or the hook shall be moused.

(h) Bridles and associated rigging for attaching the personnel platform to the hoist line shall be used only for the platform and the necessary employees, their tools and the materials necessary to do their work, and shall not be used for any other purpose when not hoisting personnel.

(6) Personnel platforms – Design criteria.

(a) The personnel platform and suspension system shall be designed by a qualified engineer or a qualified person competent in structural design.

(b) The suspension system shall be designed to minimize tipping of the platform due to movement of employees occupying the platform.

(c) The personnel platform itself, except the guardrail system and body belt/harness anchorages, shall be capable of supporting, without failure, its own weight and at least five times the maximum intended load based on a minimum allowance of five hundred pounds for the first person with light tools, and an additional two hundred fifty pounds for each additional person.

(d) Criteria for guardrail systems and body belt/harness anchorages are contained in WAC 296-155-225(4) and 296-155-505(6) respectively.

(e) The personnel platform shall be conspicuously posted with a plate or other permanent marking which indicates the weight of the platform and its rated load capacity or maximum intended load.

(7) Platform specifications.

(a) Each personnel platform shall be equipped with a guardrail system which meets the requirements of WAC 296-155-505(6) and, shall be enclosed at least from the toeboard to mid-rail with either solid construction or expanded metal having openings no greater than one-half inch (1.27 cm).

(b) A grab rail shall be installed inside the entire perimeter of the personnel platform.

(c) Access gates, if installed, shall not swing outward during hoisting.

(d) Access gates, including sliding or folding gates, shall be equipped with a restraining device to prevent accidental opening.

(e) Headroom shall be provided which allows employees to stand upright in the platform.

(f) In addition to the use of hard hats, employees shall be protected by overhead protection on the personnel platform when employees are exposed to falling objects.

(g) All rough edges exposed to contact by employees shall be surfaced or smoothed in order to prevent injury to employees from punctures or lacerations.

(h) All welding of the personnel platform and its components shall be performed by a qualified welder familiar with the weld grades, types, and material specified in the platform design.

(i) Occupants of all personnel platforms shall wear a safety belt or harness and lanyard which meets the requirements of WAC 296-155-225 (3) through (8).

(j) Box-type platform: The workers lanyard shall be secured to an anchorage within the platform meeting the requirements of WAC 296-155-225(4).

(k) Rescue platform:

(i) If the platform is used as a rescue vehicle, the injured worker shall be strapped into the stretcher or basket.

(ii) The basket shall then be secured by lanyard to an anchorage within the platform meeting the requirements of WAC 296-155-225(4).

(l) Boatswains chair: The workers lanyard shall be secured to the lift line above the headache ball or to the crane hook itself.

(m) Barrel-type platform:

(i) The workers lanyard shall be secured to the lift line above the headache ball or to the crane hook itself.

(ii) A solid bar or rod shall be substantially attached in a rigid position to the bottom or side of the platform.

(iii) The bottom of the barrel-type platform shall be of a convex shape to cause the platform to lay on its side when lowered to the ground or floor.

(iv) The bar or rod shall extend a minimum of eight feet above the floor of the platform.

(8) Personnel platform loading.

(a) The personnel platform shall not be loaded in excess of its rated load capacity.

(b) The number of employees occupying the personnel platform shall not exceed the number required for the work being performed.

(c) Personnel platforms shall be used only for employees, their tools, and the materials necessary to do their work, and shall not be used to hoist only materials or tools when not hoisting personnel.

(d) Materials and tools for use during a personnel lift shall be secured to prevent displacement.

(e) Materials and tools for use during a personnel lift shall be evenly distributed within the confines of the platform while the platform is suspended.

(9) Trial lift, inspection, and proof testing.

(a) A trial lift with the unoccupied personnel platform loaded at least to the anticipated liftweight shall be made from ground level, or any other location where employees will enter the platform, to each location at which the personnel platform is to be hoisted and positioned. This trial lift shall be performed immediately prior to placing personnel on the platform. The operator shall determine that all systems, controls, and safety devices are activated and functioning properly; that no interferences exist; and that all configurations necessary to reach those work locations will allow the operator to remain under the fifty percent limit of the hoist's rated capacity. Materials and tools to be used during the actual lift can be loaded in the platform, as provided in subsection (8)(d) and (e) of this section for the trial lift. A single trial lift may be performed at one time for all locations that are to be reached from a single set-up position.

(b) The trial lift shall be repeated prior to hoisting employees whenever the crane or derrick is moved and set up in a new location or returned to a previously used location. Additionally, the trial lift shall be repeated when the lift route is changed unless the operator determines that the route change is not significant (i.e., the route change would not affect the safety of hoisted employees).

(c) After the trial lift, and just prior to hoisting personnel, the platform shall be hoisted a few inches and inspected to ensure that it is secure and properly balanced. Employees shall not be hoisted unless the following conditions are determined to exist:

- (i) Hoist ropes shall be free of kinks;
- (ii) Multiple part lines shall not be twisted around each other;
- (iii) The primary attachment shall be centered over the platform; and
- (iv) The hoisting system shall be inspected if the load rope is slack to ensure all ropes are properly staled on drums and in sheaves.
- (d) A visual inspection of the crane or derrick, rigging, personnel platform, and the crane or derrick base support or ground shall be conducted by a competent person immediately after the trial lift to determine whether the testing has exposed any defect or produced any adverse effect upon any component or structure.
- (e) Any defects found during inspections which create a safety hazard shall be corrected before hoisting personnel.
- (f) At each job site, prior to hoisting employees on the personnel platform, and after any repair or modification, the platform and rigging shall be proof tested to one hundred twenty-five percent of the platform's rated capacity by holding it in a suspended position for five minutes with the test load evenly distributed on the platform (this may be done concurrently with the trial lift). After prooftesting, a competent person shall inspect the platform and rigging. Any deficiencies found shall be corrected and another proof test shall be conducted. Personnel hoisting shall not be conducted until the proof testing requirements are satisfied.
- (10) Work practices.
  - (a) Employees shall keep all parts of the body inside the platform during raising, lowering, and positioning. This provision does not apply to an occupant of the platform performing the duties of a signal person.
  - (b) Before employees exit or enter a hoisted personnel platform that is not landed, the platform shall be secured to the structure where the work is to be performed, unless securing to the structure creates an unsafe situation.
  - (c) Tag lines shall be used unless their use creates an unsafe condition.
  - (d) The crane or derrick operator shall remain at the controls at all times when the crane engine is running and the platform is occupied.
  - (e) Hoisting of employees shall be promptly discontinued upon indication of any dangerous weather conditions or other impending danger.
  - (f) Employees being hoisted shall remain in continuous sight of and in direct communication with the operator or signal person. In those situations where direct visual contact with the operator is not possible, and the use of a signal person would create a greater hazard for that person, direct communication alone such as by radio may be used.
  - (g) Hand signals to the operator shall be in accordance with WAC 296-155-525 (1)(c).
  - (h) Except over water, employees occupying the personnel platform shall use a body belt/harness system with lanyard appropriately attached to the lower load block or overhaul ball, or to a structural member within the personnel platform capable of supporting a fall impact for employees using the anchorage. When working over water, the requirements of WAC 296-155-235 shall apply.
  - (i) No lifts shall be made on another of the crane's or derrick's load lines while personnel are suspended on a platform.
  - (11) Traveling.
    - (a) Hoisting of employees while the crane is traveling is prohibited, except for portal, tower and locomotive cranes, or where the employer demonstrates that there is no less hazardous way to perform the work.
    - (b) Under any circumstances where a crane would travel while hoisting personnel, the employer shall implement the following procedures to safeguard employees:
      - (i) Crane travel shall be restricted to a fixed track or runway;
      - (ii) Travel shall be limited to the load radius of the boom used during the lift; and
      - (iii) The boom must be parallel to the direction of travel.
    - (c) A complete trial run shall be performed to test the route of travel before employees are allowed to occupy the platform. This trial run can be performed at the same time as the trial lift required by subsection (9)(a) of this section which tests the route of the lift.
    - (d) If travel is done with a rubber tired-carrier, the condition and air pressure of the tires shall be checked. The chart capacity for lifts on rubber shall be used for application of the fifty percent reduction of rated capacity. Notwithstanding subsection (3)(f) of this section, outriggers may be partially retracted as necessary for travel.
  - (12) Prelift meeting.
    - (a) A meeting attended by the crane or derrick operator, signal person(s) (if necessary for the lift), employee(s) to be lifted, and the person responsible for the task to be performed shall be held to review

the appropriate requirements of this section and the procedures to be followed.

(b) This meeting shall be held prior to the trial lift at each new work location, and shall be repeated for any employees newly assigned to the operation.

#### NEW SECTION

WAC 296-155-48536 FORKLIFT ELEVATED WORK PLATFORMS. When a forklift truck is used for elevating workers a platform shall be specifically built for that purpose and shall comply with the following requirements:

- (1) The platform shall be securely attached to the forks and shall have standard guardrails and toeboards on all open sides.
- (2) The hydraulic system of the forklift shall be so designed that the lift mechanism will not drop faster than one hundred thirty-five feet per minute in the event of a failure in any part of the system. Forklifts used for elevating platforms shall be identified that they are so designed.
- (3) A safety strap shall be installed or the control lever shall be locked to prevent the boom from tilting.
- (4) An operator shall be at the controls of the forklift equipment while persons are on the platform.
- (5) The operator shall be in the normal operating position while raising or lowering the platform.
- (6) The vehicle shall not travel from point to point while workers are on the platform except that inching or maneuvering at very slow speed is permissible.
- (7) The area between workers on the platform and the mast shall be adequately guarded to prevent contact with chains or other shear points.
- (8) All platforms shall be visually inspected daily or before each use by the person in charge of the work being performed, and shall be tested as frequently as is necessary to maintain minimum safety factors.

#### AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-510 STAIRWAYS. (1) General.

(a) In all buildings or structures two or more stories or twenty-four feet or more in height or depth, suitable permanent or temporary stairways shall be installed.

##### EXCEPTIONS:

At those locations where unusual site conditions prevail, an alternate effective means of access acceptable to the division may be afforded.

(b) For the purpose of this section, scaffolds shall not be considered to be structures. Stairways shall be at least twenty-four inches in width and shall be equipped with handrails, treads and landings. Temporary stairs shall have a landing not less than thirty inches wide in the direction of travel at each floor, or level, but never less than one landing for every twelve feet of vertical rise.

##### EXCEPTIONS:

Stairways forty-four inches or less in width may have one handrail, except that stairways open on one or both sides shall have handrails provided on the open side or sides.

Prefabricated metal scaffold stairway systems.

(c) Stairways, ramps or ladders shall be provided at all points where a break in elevation of eighteen inches or more occurs in a frequently traveled passageway, entry or exit.

(d) A minimum of one stairway shall be provided for access and exit for buildings and structures to three stories or thirty-six feet; if more than three stories or thirty-six feet, two or more stairways shall be provided. Where two stairways are provided and work is being performed in the stairways, one shall be maintained clear for access between levels at all times.

Note: For stairway access at demolition projects, refer to WAC 296-155-775 through 296-155-830.

##### EXCEPTIONS:

At those locations where unusual site conditions prevail, an alternate effective means of access acceptable to the division may be afforded.

For the purpose of this section, scaffolds shall not be considered to be structures.

(e) Stairways shall conform to the criteria shown in Figure K-1.

(f) Wood frame buildings.

(i) The stairway to a second or higher floor shall be completed before studs are raised to support the next higher floor.

(ii) Roof and attic work areas of all buildings shall be provided with a safe means of access and egress, such as stairways, ramps or ladders.

(iii) Cleats shall not be nailed to studs to provide access to and egress from roof or other work areas.

(g) Steel frame buildings. Stairways shall extend to the uppermost floor that has been planked or decked. Ladders may be used above that point.

(h) Reinforced concrete or composite steel—Concrete buildings. Stairways shall extend to the lowermost floor upon which a complete vertical shoring system is in place. A minimum of two ladders at different locations for each floor may be used above this floor but not to exceed three floors.

(2) Stairway railing and guardrails shall meet the requirements of WAC 296-155-505 (5) and (6).

(3) All parts of stairways shall be free of hazardous projections, such as protruding nails.

(4) Debris, and other loose materials, shall not be allowed on or under stairways.

(5) Slippery conditions on stairways shall be eliminated as soon as possible after they occur.

(6) Permanent steel or other metal stairways, and landings with hollow pan-type treads that are to be filled with concrete or other materials, when used during construction, shall be filled to the level of the nosing with solid material. The requirement shall not apply during the period of actual construction of the stairways themselves.

(7) Wooden treads for temporary service shall be full width.

(8) Metal landings shall be secured in place before filling.

(9) Temporary stairs shall have a landing not less than ((30)) thirty inches in the direction of travel at every ((+2)) twelve feet of vertical rise.

(10) Stairs shall be installed at angles to the horizontal of between ((30° and 50°)) thirty degrees and fifty degrees. Because of space limitations, stairways sometimes have to be installed at angles above the fifty degree critical angle. Such installations are commonly called inclined ladders or ship's ladders. These shall have hand rails on both sides and open risers. They shall be capable of sustaining a live load of one hundred pounds per square foot with a safety factor of four. The following preferred and critical angles from the horizontal shall be considered for inclined ladders and ship's ladders:

(a) Thirty-five to sixty degrees – Preferred angle from horizontal.

(b) Sixty to seventy degrees – Critical angle from horizontal.

(11) Rise height and tread width shall be uniform throughout any flight of stairs including any foundation structure used as one or more treads of the stairs.

(12) All stairs shall be lighted in accordance with Part B of this chapter.

(13) Spiral stairways shall not be permitted except for special limited usage and secondary access situations where it is not practical to provide a conventional stairway.

(14) Employers are permitted to use alternating tread type stairs as long as they install, use, and maintain the stairs in accordance with manufacturers' recommendations and the following:

(a) The stair must be installed at an angle of seventy degrees or less.

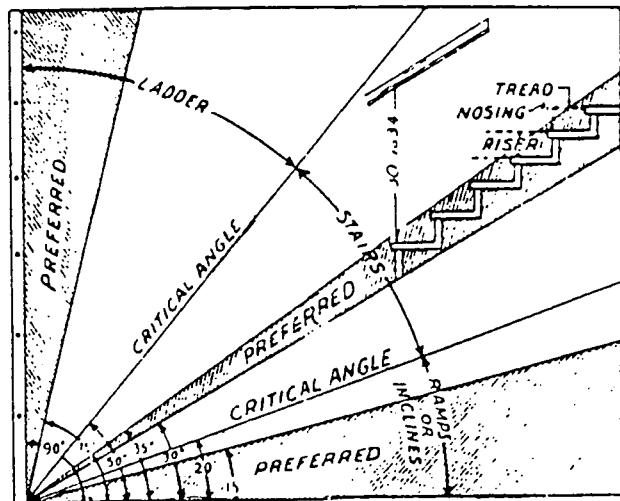
(b) The stair must be capable of withstanding a minimum uniform load of one hundred pounds per square foot with a design factor of 1.7, and the treads must be capable of carrying a minimum concentrated load of three hundred pounds at the center of any treadspan or exterior arc with a design factor of 1.7. If the stair is intended for greater loading, construction must allow for that loading.

(c) The stair must be equipped with a handrail on each side to assist the user in climbing or descending.

(15) Due to space limitations, when a permanent stairway must be installed at an angle above fifty degrees, such an installation (commonly called an inclined or ship's ladder) shall have treads, open risers and handrails on both sides.

(16) Where ladders are permitted for access under subsection (1) of this section, means shall be provided for employee hoisting of tools and material, such as a well wheel and hoisting line or the equivalent, so employees will have both hands free for ascending and descending ladders.

#### PREFERRED AND CRITICAL ANGLES OF FIXED LADDERS AND STAIRS



#### AMENDATORY SECTION (Amending Order 74-26, filed 5/7/74, effective 6/6/74)

WAC 296-155-675 SCOPE, APPLICATION, AND DEFINITIONS APPLICABLE TO THIS PART. ((1) "Bull float" means a tool used to spread out and smooth the concrete.

((2) "Formwork" or "falsework" means the total system of support for freshly placed concrete, including the mold or sheathing which contacts the concrete as well as all supporting members, hardware, and necessary bracing.

((3) "Guy" means a line that steadies a high piece or structure by pulling against an off-center load.

((4) "Shore" means a supporting member that resists a compressive force imposed by a load.

((5) "Vertical slip forms" means forms which are jacked vertically and continuously during placing of the concrete.) (1) Scope and application. This subpart sets forth requirements to protect all construction employees from the hazards associated with concrete and masonry construction operations performed in workplaces covered under chapter 296-155 WAC.

(2) Definitions applicable to this part.

(a) "Bull float" means a tool used to spread out and smooth the concrete.

(b) "Formwork" means the total system of support for freshly placed or partially cured concrete, including the mold or sheeting (form) that is in contact with the concrete as well as all supporting members including shores, reshores, hardware, braces, and related hardware.

(c) "Limited access zone" means an area alongside a masonry wall, which is under construction, and which is clearly demarcated to limit access by employees.

(d) "Precast concrete" means concrete members (such as walls, panels, slabs, columns, and beams) which have been formed, cast, and cured prior to final placement in a structure.

(e) "Reshoring" means the construction operation in which shoring equipment (also called reshores or reshoring equipment) is placed, as the original forms and shores are removed, in order to support partially cured concrete and construction loads.

(f) "Shore" means a supporting member that resists a compressive force imposed by a load.

(g) "Vertical slip forms" means forms which are jacked vertically during the placement of concrete.

(h) "Guy" means a line that steadies a high piece or structure by pulling against an off-center load.

#### AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-680 GENERAL PROVISIONS. (1) General. All equipment, material and construction techniques used in concrete construction and masonry work shall meet the applicable requirements for design, construction, inspection, testing, maintenance and operations as

prescribed in ANSI A10.9-1970 ((and ANSI A12.3.1-1970)), Safety Requirements for Concrete Construction and Masonry Work.

((2) Reinforcing steel:

(a) Employees working more than 6 feet above any adjacent working surfaces, placing and tying reinforcing steel in walls, piers, columns, etc., shall use a safety belt, or equivalent device, in accordance with part C of this chapter.

(b) Employees shall not be permitted to work above vertically protruding reinforcing steel unless it has been protected to eliminate the hazard of impalement.

(c) Guying. Reinforcing steel for walls, piers, columns, and similar vertical structures shall be guyed and supported to prevent collapse.

(d) Wire mesh rolls. Wire mesh rolls shall be secured at each end to prevent dangerous recoiling action.

(3) Bulk concrete handling. Bulk storage bins, containers, or silos shall have conical or tapered bottoms with mechanical or pneumatic means of starting the flow of material.

(4) Concrete placement:

(a) Concrete mixers. Concrete mixers equipped with 1-yard or larger loading skips shall be equipped with a mechanical device to clear the skip of material.

(b) Guardrails. Mixers of 1-yard capacity or greater shall be equipped with protective guardrails installed on each side of the skip.

(c) Bull floats. Handles on bull floats, used where they may contact energized electrical conductors, shall be constructed of nonconductive material, or insulated with a nonconductive sheath whose electrical and mechanical characteristics provide the equivalent protection of a handle constructed of nonconductive material.

(d) Powered concrete trowels. Powered and rotating-type concrete troweling machines that are manually guided shall be equipped with a control switch that will automatically shut off the power whenever the operator removes his hands from the equipment handles.

(e) Concrete buggies. Handles of buggies shall not extend beyond the wheels on either side of the buggy.

Note. Installation of knuckle guards on buggy handles is recommended.

(f) Concrete finishing:

(i) Scaffolding for use of cement finishers shall comply with all applicable sections of WAC 296-155-485.

(ii) Where grinders, chippers and other equipment is used which creates a thrust force while working on scaffolding, such scaffold shall be securely tied to structure or held in with weighted drop lines.

(iii) Grinding and dressing operations carried on within closed rooms, stairwells, elevator shafts, etc., shall be provided with forced air ventilation.

(iv) Grinding machine operators shall wear respirators whenever machines are in operation or where dust hazard exists.

(v) Eye protection shall be worn by workers engaged in grinding, chipping or sacking concrete as required by WAC 296-155-215.

(g) Concrete pumping systems:

(i) The employer shall comply with the manufacturer's specifications and limitations applicable to the operation of pumpcrete or similar systems. Where manufacturer's specifications are not available, the limitations assigned to the equipment shall be based on the determinations of a qualified engineer, competent in this field, and such determinations will be appropriately documented and recorded.

(ii) Rated load capacities, and recommended operating speeds and pressures, special hazard warnings, or instructions, shall be conspicuously posted on all equipment. Instructions and warnings shall be visible to the operator while he is at his control station.

(iii) Discharge pipes shall be provided with pipe supports designed for 100 percent overload.

(iv) The hose used to carry concrete in such systems shall be provided with positive fail-safe joint connectors to prevent separation of sections when pressurized.

(v) Hoses and/or pipes used to carry concrete under pressure shall be secured one to the other with an adequate length of at least 1/4 inch-diameter chain or cable to prevent whipping in the event of an accidental separation of joints. All system safety pins shall be in place during pumping operations.

(vi) The employer shall designate a competent person who shall inspect all machinery, equipment, and accessories prior to each use, and periodically during use, to make sure it is in safe operating condition. Any deficiencies shall be repaired, or defective parts replaced, before continued use.

(vii) A thorough, annual inspection of the equipment, including x-ray of booms, shall be made by a competent person, or by a government or private agency recognized by the department. The employer shall maintain a permanent record of the dates and results of annual inspections for each pumpcrete system.

(viii) All welding shall conform to ASW B3.0-41 Standard Qualification Procedure, AWS D8.4-61 Recommended Practices for Automotive Welding Design, or AWS D10.9-69 Standard Qualification of Welding Procedures and Welders for Piping and Tubing.

(ix) Booms shall not be used for operations other than that for which they are designed.

(h) Concrete buckets:

(i) Concrete buckets equipped with hydraulic or pneumatically operated gates shall have positive safety latches or similar safety devices installed to prevent aggregate and loose material from accumulating on the top and sides of the bucket.

(ii) Riding of concrete buckets for any purpose shall be prohibited, and vibrator crews shall be kept out from under concrete buckets suspended from cranes or cableways.

(i) When discharging on a slope, the wheels of ready-mix trucks shall be blocked and the brakes set to prevent movement.

(j) Runways shall be constructed to carry the maximum contemplated load with a safety factor of four, have a smooth running surface and be of sufficient width for two buggies to pass. Single runs to have a minimum width of 42 inches with turnouts. Runways to have standard railings. Where motor driven concrete buggies are used, a minimum 4" x 4" wheel guard shall be securely fastened to outside edge of runways.

(k) Nozzlemen applying a cement, sand, and water mixture through a pneumatic hose shall be required to wear protective head and face equipment, as prescribed in Part C of this chapter.

(l) Vertical shoring:

(a) General requirements:

(i) When temporary storage of reinforcing rods, material, or equipment on top of formwork becomes necessary, these areas shall be strengthened to meet the intended loads.

(ii) The sills for shoring shall be sound, rigid, and capable of carrying the maximum intended load without settlement or displacement.

(iii) All shoring equipment shall be inspected prior to erection to determine that it is as specified in the shoring layout. Any equipment found to be damaged shall not be used for shoring.

(iv) Erected shoring equipment shall be inspected immediately prior to, during, and immediately after the placement of concrete. Any shoring equipment that is found to be damaged or weakened shall be immediately reinforced or restored.

(v) Reshoring shall be provided when necessary to safely support slabs and beams after stripping, or where such members are subjected to superimposed loads due to construction work done.

(b) Tubular welded frame shoring:

(i) Metal tubular frames used for shoring shall not be loaded beyond the safe working load recommended by the manufacturer.

(ii) All locking devices on frames and braces shall be in good working order; coupling pins shall align the frame or panel legs; pivoted cross braces shall have their center pivot in place, and all components shall be in a condition similar to that of original manufacture.

(iii) When checking the erected shoring frames with the shoring layout, the spacing between towers and cross brace spacing shall not exceed that shown on the layout, and all locking devices shall be in the closed position.

(iv) Devices for attaching the external lateral stability bracing shall be securely fastened to the legs of the shoring frames.

(v) All baseplates, shore heads, extension devices, or adjustment screws shall be in firm contact with the footing sill and the form.) (2) Construction loads. No construction loads shall be placed on a concrete structure or portion of a concrete structure unless the employer determines, based on information received from a person who is qualified in structural design, that the structure or portion of the structure is capable of supporting the loads.

(3) Vertical loads. Vertical loads consist of a dead load plus an allowance for live load. The weight of formwork together with the weight of freshly placed concrete is dead load. The live load consists of the weight of workmen, equipment, runways and impact, and shall be computed in pounds per square foot (psf) of horizontal projection.

(4) Lateral loads. Braces and shores shall be designed to resist all foreseeable lateral loads such as wind, cable tensions, inclined supports, impact of placement, and starting and stopping of equipment. The assumed value of load due to wind, impact of concrete, and

equipment acting in any direction at each floor line shall not be less than one hundred pounds per lineal foot of floor edge or two percent of total dead load of the floor, whichever is greater. Wall forms shall be designed for a minimum wind load of ten psf, and bracing for wall forms should be designed for a lateral load of at least one hundred pounds per lineal foot of wall, applied at the top. Walls of unusual height require special consideration.

(5) Special loads. Formwork shall be designed for all special conditions of construction likely to occur, such as unsymmetrical placement of concrete, impact of machine-delivered concrete, uplift, and concentrated loads.

(6) Construction loads. Imposition of any construction loads on the partially completed structure shall not be permitted unless such loading has been considered in the design and approved by the engineer-architect.

(7) Form supports and wedges shall be checked during concrete placement to prevent distortion or failure.

(8) Reinforcing steel.

(a) Employees shall not be permitted to work above vertically protruding reinforcing steel unless it has been protected to eliminate the hazard of impalement.

(b) Wire mesh rolls: Wire mesh rolls shall be secured at each end to prevent dangerous recoiling action.

(c) Guying: Reinforcing steel for walls, piers, columns, and similar vertical structures shall be guyed and supported to prevent overturning and to prevent collapse.

(9) Post-tensioning operations.

(a) No employee (except those essential to the post-tensioning operations) shall be permitted to be behind the jack during tensioning operations.

(b) Signs and barriers shall be erected to limit employee access to the post-tensioning area during tensioning operations.

(10) Working under loads.

(a) No employee shall be permitted to work under concrete buckets while buckets are being elevated or lowered into position.

(b) To the extent practical, elevated concrete buckets shall be routed so that no employee, or the fewest number of employees, are exposed to the hazards associated with falling concrete buckets.

(11) Personal protective equipment.

(a) No employee shall be permitted to apply a cement, sand, and water mixture through a pneumatic hose unless the employee is wearing protective head and face equipment.

(b) No employee shall be permitted to place or tie reinforcing steel more than six feet (1.8 m) above any adjacent working surface unless the employee is protected by the use of a safety belt or equivalent fall protection meeting the criteria of WAC 296-155-225.

## NEW SECTION

**WAC 296-155-681 SAFE WALKING SURFACES ON CONCRETE STRUCTURAL MEMBERS.** Structural members with studs, dowels, or shear connectors installed on the top side shall not be used as a walkway and/or means of access unless such studs, dowels, or shear connectors are covered with suitable material and in such a manner as to provide a walking surface at least as stable and free of hazards as the top surface of the member would provide without attachments installed.

Note: For the purpose of this section, "stud" means all protruding metal attachments to structural members.

## NEW SECTION

**WAC 296-155-682 REQUIREMENTS FOR EQUIPMENT AND TOOLS.** (1) Bulk cement storage. Bulk storage bins, containers, and silos shall be equipped with the following:

(a) Conical or tapered bottoms; and

(b) Mechanical or pneumatic means of starting the flow of material.

(2) No employee shall be permitted to enter storage facilities unless the ejection system has been shut down and locked out in accordance with WAC 296-155-429.

(3) Safety belts, harnesses, lanyards, lifelines or droplines, independently attached or attended, shall be used as prescribed in WAC 296-155-225 (10)(a).

(4) Concrete mixers. Concrete mixers with one cubic yard (.8 m<sup>3</sup>) or larger loading skips shall be equipped with the following:

(a) A mechanical device to clear the skip of materials; and

(b) Guardrails installed on each side of the skip.

(5) Power concrete trowels. Powered and rotating type concrete troweling machines that are manually guided shall be equipped with a control switch that will automatically shut off the power whenever the hands of the operator are removed from the equipment handles.

(6) Concrete buggies. Concrete buggy handles shall not extend beyond the wheels on either side of the buggy.

Note: Installation of knuckle guards on buggy handles is recommended.

(7) Runways shall be constructed to carry the maximum contemplated load with a safety factor of four, have a smooth running surface and be of sufficient width for two buggies to pass. Single runs to have a minimum width of forty-two inches with turnouts. Runways to have standard railings. Where motor driven concrete buggies are used, a minimum four-inches by four-inches wheel guard shall be securely fastened to outside edge of runways.

(8) Concrete pumping systems.

(a) The employer shall comply with the manufacturer's specifications and limitations applicable to the operation of pumpcrete or similar systems. Where manufacturer's specifications are not available, the limitations assigned to the equipment shall be based on the determinations of a qualified engineer, competent in this field, and such determinations will be appropriately documented and recorded.

(b) Rated load capacities, and recommended operating speeds and pressures, special hazard warnings, or instructions, shall be conspicuously posted on all equipment. Instructions and warnings shall be visible to the operator while he is at his control station.

(c) Concrete pumping systems using discharge pipes shall be provided with pipe supports designed for one hundred percent overload.

(d) Compressed air hoses used on concrete pumping systems shall be provided with positive fail-safe joint connectors to prevent separation of sections when pressurized.

(e) No part of the concrete pumping system shall operate closer to high voltage electrical conductors than the distances specified in WAC 296-155-428 (1)(d)(i) and (ii).

(9) Concrete buckets.

(a) Concrete buckets equipped with hydraulic or pneumatic gates shall have positive safety latches or similar safety devices installed to prevent premature or accidental dumping.

(b) Concrete buckets shall be designed to prevent concrete from hanging up on top and the sides.

(c) Riding of concrete buckets for any purpose shall be prohibited, and vibrator crews shall be kept out from under concrete buckets suspended from cranes or cableways.

(d) When discharging on a slope, the wheels of ready-mix trucks shall be blocked and the brakes set to prevent movement.

(10) Tremies. Sections of tremies and similar concrete conveyances shall be secured with wire rope (or equivalent materials in addition to the regular couplings or connections).

(11) Bull floats. Bull float handles, used where they might contact energized electrical conductors, shall be constructed of nonconductive material or insulated with a nonconductive sheath whose electrical and mechanical characteristics provide the equivalent protection of a handle constructed of nonconductive material.

(12) Masonry saws shall be constructed, guarded, and operated in accordance with ANSI A10.9-1983. Safety requirements for concrete construction and masonry work and in accordance with WAC 296-155-367.

(13) Lockout/tagout procedures. No employee shall be permitted to perform maintenance or repair activity on equipment (such as compressors, mixers, screens, or pumps used for concrete and masonry construction activities) where the inadvertent operation of the equipment could occur and cause injury, unless all potentially hazardous energy sources have been locked out and tagged in accordance with WAC 296-155-429.

## NEW SECTION

**WAC 296-155-683 CONCRETE FINISHING.** (1) Scaffolding for use of cement finishers shall comply with all applicable subsections of WAC 296-155-485.

(2) Where grinders, chippers, and other equipment is used which creates a thrust force while working on scaffolding, such scaffold shall be securely tied to a structure or held in with weighted drop lines.

(3) Grinding and dressing operations carried on within closed rooms, stairwells, elevator shafts, etc., shall be provided with forced air ventilation.

(4) Grinding machine operators shall wear respirators whenever machines are in operation or where dust hazard exists.

(5) Eye protection shall be worn by workers engaged in grinding, chipping, or sacking concrete as required by WAC 296-155-215.

## NEW SECTION

### **WAC 296-155-684 REQUIREMENTS FOR CAST IN PLACE CONCRETE.** (1) General requirements for formwork.

(a) Formwork shall be designed, fabricated, erected, supported, braced, and maintained so that it will be capable of supporting without failure all vertical and lateral loads that may reasonably be anticipated to be applied to the formwork. Formwork which is designed, fabricated, erected, supported, braced, and maintained in conformance with the Appendix to this section will be deemed to meet the requirements of this subdivision.

(b) Any form, regardless of size, shall be planned in every particular and designed and constructed with an adequate factor of safety. In addition to computable loading, additional form pressures may result from impact during concrete placement, sudden lowering of temperatures retarding the set and increasing the liquid head or static pressure, vibrations of the form or concrete, uneven stressing resulting from failure or weakening of form members, or impact from concrete buckets or placing equipment. As a result, an adequate factor of safety is required to offset these unpredictable conditions.

(c) The thoroughness of planning and design shall be governed by the size, complexity, and intended use of the form. Formwork which is complex in nature or which will be subjected to unusually high concrete pressures shall be designed or approved for use by an engineer or experienced form designer.

(2) Drawings or plans, including all revisions, for the jack layout, formwork (including shoring equipment), working decks, and scaffolds, shall be available at the jobsite.

#### (3) Shoring and reshoring.

(a) General: Shoring installations constructed in accordance with this standard shall be designed in accordance with American National Standard Recommended Practice for Concrete Formwork, ANSI-(ACI 347-78), Formwork for Concrete ACI 318-83, or with the following publications of the Scaffolding & Shoring Institute: Recommended Standard Safety Code for Vertical Shoring, 1970; Single Post Shore Safety Rules, 1969; and Steel Frame Shoring Safety, Safety Rules, 1969.

(b) All shoring equipment shall be inspected prior to erection to determine that it is as specified in the shoring layout.

(c) A shoring layout shall be prepared or approved by a person qualified to analyze the loadings and stresses which are induced during the construction process.

(d) A copy of the shoring layout shall be available at the jobsite.

(e) The shoring layout shall include all details of the specification, including unusual conditions such as heavy beams, sloping areas, ramps, and cantilevered slabs, as well as plan and elevation views.

(f) Shoring equipment found to be damaged such that its strength is reduced to less than that required by WAC 296-155-683 (1)(a) shall not be used for shoring.

(g) Erected shoring equipment shall be inspected immediately prior to, during, and immediately after concrete placement.

(h) Upon inspection, shoring equipment that is found to be damaged or weakened shall be immediately removed and replaced.

(i) The sills for shoring shall be sound, rigid, and capable of carrying the maximum intended load without settlement or displacement.

(j) All base plates, shore heads, extension devices, and adjustment screws shall be in firm contact, and secured when necessary, with the foundation and the form.

(k) Eccentric loads on shore heads and similar members shall be prohibited unless these members have been designed for such loading.

(l) The minimum total design load for any shoring used in slab and beam structures shall be not less than one hundred pounds per square foot for the combined live and dead load regardless of slab thickness; however, the minimum allowance for live load and formwork shall be not less than twenty pounds per square foot in addition to the weight of the concrete. Additional allowance for live load shall be added for special conditions other than when placing concrete for standard-type slabs and beams. Shoring shall also be designed to resist all foreseeable lateral loads such as wind, cable tensions, inclined supports, impact of placement, and starting and stopping of equipment. The assumed value of load due to wind, impact of concrete, and equipment acting in any direction at each floor line shall not be less than one hundred pounds per lineal foot of floor edge or two percent of total dead load of the floor, whichever is greater. (See subsection (3)(b) of this section.)

(m) When motorized carts are used, the design load shall be increased twenty-five pounds per square foot.

(4) The design stresses for form lumber and timbers shall be within the tolerance of the grade, condition, and species of lumber used.

(5) The design stresses used for form lumber and timber shall be shown on all drawings, specifications, and shoring layouts.

(6) All load-carrying timber members of scaffold framing shall be a minimum of 1500 f (stress grade) construction grade lumber. All dimensions are nominal sizes except that where rough sizes are noted, only rough or undressed lumber of the size specified shall satisfy minimum requirements.

(7) When shoring from soil, an engineer or other qualified person shall determine that the soil is adequate to support the loads which are to be placed on it.

(8) Precautions shall be taken so that weather conditions do not change the load-carrying conditions of the soil below the design minimum.

(9) When shoring from fill or when excessive earth disturbance has occurred, an engineer or other qualified person shall supervise the compaction and reworking of the disturbed area and determine that it is capable of carrying the loads which are to be imposed upon it.

(10) Suitable sills shall be used on a pan or grid dome floor or any other floor system involving voids where vertical shoring equipment could concentrate an excessive load on a thin concrete section.

(11) When temporary storage of reinforcing rods, material, or equipment on top of formwork becomes necessary, these areas shall be sufficient to meet the loads.

(12) If any deviation in the shoring plan is necessary because of field conditions, the person who prepared the shoring layout shall be consulted for his approval of the actual field setup before concrete is placed.

(13) The shoring setup shall be checked to insure that all details of the layout have been met.

(14) The completed shoring setup shall be a homogenous unit or units and shall have the specified bracing to give it lateral stability.

(15) The shoring setup shall be checked to make certain that bracing specified in the shoring layout for lateral stability is in place.

(16) All vertical shoring equipment shall be plumb. Maximum allowable deviation from the vertical is one-eighth inch in three feet. If this tolerance is exceeded, the shoring equipment shall not be used until readjusted within this limit.

(17) Upon inspection, shoring equipment that is found to be damaged or weakened shall be immediately removed and replaced.

(18) Shoring equipment shall not be released or removed until the approval of a qualified engineer has been received.

(19) Removal of shoring equipment shall be planned so that the equipment which is still in place is not overloaded.

(20) Slabs or beams which are to be reshored should be allowed to take their actual permanent deflection before final adjustment of reshoring equipment is made.

(21) While the reshoring is underway, no construction loads shall be permitted on the partially-cured concrete.

(22) The allowable load on the supporting slab shall not be exceeded when reshoring.

(23) The reshoring shall be thoroughly checked to determine that it is properly placed and that it has the load capacity to support the areas that are being reshored.

## AMENDATORY SECTION (Amending Order 74-26, filed 5/7/74, effective 6/6/74)

**WAC 296-155-685 ((SAFE WALKING SURFACES ON CONCRETE STRUCTURAL MEMBERS)) TUBULAR WELDED FRAME SHORING.** ((Structural members with studs, dowels or shear connectors installed on the top side shall not be used as a walkway and/or means of access unless such studs, dowels or shear connectors are covered with suitable material and in such a manner as to provide a walking surface at least as stable and free of hazards as the top surface of the member would provide without attachments installed.))

**Note:** For the purpose of this section, "stud" shall mean all protruding metal attachments to structural members.))

**(1) Metal tubular frames used for shoring shall have allowable loads based on tests conducted according to the Recommended Procedure for Compression Testing of Scaffolds and Shores, Scaffolding & Shoring Institute, 1967.**

(2) Design of shoring layouts shall be based on allowable loads which were obtained using the test procedures of subsection (1) of this section and on at least a two and one-half to one safety factor.

(3) All metal frame shoring equipment shall be inspected before erection.

(4) Metal frame shoring equipment and accessories shall not be used if heavily rusted, bent, dented, rewelded, or having broken weldments or other defects.

(5) All locking devices on frames and braces shall be in good working order, coupling pins shall align the frame or panel legs, pivoted cross braces shall have their center pivot in place, and all components shall be in a condition similar to that of original manufacture.

(6) When checking the erected shoring frames with the shoring layout, the spacing between towers and cross-brace spacing shall not exceed that shown on the layout, and all locking devices shall be in the closed position.

(7) Devices for attaching the external lateral stability bracing shall be securely fastened to the legs of the shoring frames.

(8) All baseplates, shore heads, extension devices, or adjustment screws shall be in firm contact with the footing sill and the form material, and shall be snug against the legs of the frames.

(9) Eccentric loads on shore heads and similar members shall be prohibited unless the shore heads have been designed for such loading.

(10) When formwork is installed at an angle, or sloping, or when the surface shored from is sloping, the shoring shall be designed for such loading.

(11) Adjustment screws shall not be adjusted to raise formwork after the concrete is in place.

#### NEW SECTION

**WAC 296-155-686 TUBE AND COUPLER SHORING.** (1) Tube and coupler towers used for shoring shall have allowable loads based on tests conducted according to the Recommended Procedure for Compression Testing of Scaffolds and Shores, Scaffolding & Shoring Institute, 1967.

(2) Design of shoring layouts shall be based on working loads which were obtained using the test procedures of subsection (1) of this section and on at least a two and one-half to one safety factor.

(3) All tube and coupler components shall be inspected before being used.

(4) Tubes of shoring structures shall not be used if heavily rusted, bent, dented, or having other defects.

(5) Couplers (clamps) shall not be used if deformed, broken, or having defective or missing threads on bolts, or other defects.

(6) The material used for the couplers (clamps) shall be of a structural type such as drop-forged steel, malleable iron, or structural grade aluminum. Gray cast iron shall not be used.

(7) When checking the erected shoring towers with the shoring layout, the spacing between posts shall not exceed that shown on the layout, and all interlocking of tubular members and tightness of couplers should be checked.

(8) All baseplates, shore heads, extension devices, or adjustment screws shall be in firm contact with the footing sill and the form material, and shall be snug against the posts.

(9) Eccentric loads on shore heads and similar members shall be prohibited unless the shore heads have been designed for such loading.

(10) Special precautions shall be taken when formwork is at angles, or sloping, or when the surface shored from is sloping.

(11) Adjustment screws shall not be adjusted to raise formwork after the concrete is in place.

#### NEW SECTION

**WAC 296-155-687 SINGLE POST SHORES.** (1) When checking erected single post shores with the shoring layout, the spacing between shores in either direction shall not exceed that shown on the layout, and all clamps, screws, pins, and all other components shall be in the closed or engaged position.

(2) For stability, single post shores shall be horizontally braced in both the longitudinal and transverse directions. Diagonal bracing shall also be installed. Such bracing shall be installed as the shores are being erected.

(3) Devices which attach to the external lateral stability bracing shall be securely fastened to the single post shores.

(4) All baseplates or shore heads of single post shores shall be in firm contact with the footing sill and the form material.

(5) Whenever single post shores are used in more than one tier, the layout shall be designed and inspected by a structural engineer.

(6) Eccentric loads on shore heads shall be prohibited unless the shore heads have been designed for such loading.

(7) When formwork is at an angle, or sloping, or when the surface shored from is sloping, the shoring shall be designed for such loading.

(8) Adjustment of single post shores to raise formwork shall not be made after concrete is in place.

(9) Respecting fabricated single post shores, the following shall apply:

(a) The clamp used for adjustable timber single post shores shall have working load ratings based on tests conducted according to the standard test procedures for fabricated single post shores in Recommended Procedure for Compression Testing of Scaffolds and Shores, Scaffolding & Shoring Institute, 1967, and on at least a three to one safety factor.

(b) Shoring layouts shall be made using working loads which were obtained using the test procedures of (a) of this subsection, and on at least a three to one safety factor.

(c) All fabricated single post shores shall be inspected before being used.

(d) Fabricated single post shores shall not be used if heavily rusted, bent, dented, rewelded, or having broken weldments or other defects. If they contain timber, they shall not be used if timber is split, cut, has sections removed, is rotted, or otherwise structurally damaged.

(e) All clamps, screws, pins, threads, and all other components shall be in a condition similar to that of original manufacture.

(10) Respecting adjustable timber single post shores, the following shall apply:

(a) The clamp used for adjustable timber single post shores shall have working load ratings based on tests conducted according to the standard test procedures for fabricated single post shores in Recommended Procedure for Compression Testing of Scaffolds and Shores, Scaffolding & Shoring Institute, 1967, and on at least a three to one safety factor.

(b) Timber used shall have the safety factor and allowable working load for each grade and species as recommended in the Tables for wooden columns in the Wood Structural Design Data Book, National Forest Products Association, 1970.

(c) The shoring layout shall be made using the allowable load obtained by using the test procedure for the clamp or Tables for timber referred to in (a) and (b) of this subsection.

(d) All timber and adjusting devices to be used for adjustable timber single post shores shall be inspected before erection.

(e) Timber shall not be used if it is split, cut, has sections removed, is rotted, or is otherwise structurally damaged.

(f) Adjusting devices shall not be used if heavily rusted, bent, dented, rewelded, or having broken weldments or other defects.

(g) All nails used to secure bracing on adjustable timber single post shores shall be driven home and the point of the nail bent over.

(11) Respecting timber single post shores, the following shall apply:

(a) Timber used as single post shores shall have the safety factor and allowable working load for each grade and species as recommended in the Tables for wooden columns in the Wood Structural Design Data Book, National Forest Products Association, 1970.

(b) The shoring layout shall be prepared by using working loads obtained by using the Tables referred to in (a) of this subsection.

(c) All timber to be used for single post shoring shall be inspected before erection.

(d) Timber shall not be used if it is split, cut, has sections removed, is rotted, or is otherwise structurally damaged.

(e) All nails used to secure bracing on timber single post shores shall be driven home and the point of the nail bent over.

(12) Tiered single post shores. Whenever single post shores are used one on top of another (tiered), the employer shall comply with the following specific requirements in addition to the general requirements for formwork:

(a) The design of the shoring shall be prepared by a qualified designer and the erected shoring shall be inspected by an engineer qualified in structural design.

(b) The single post shores shall be vertically aligned.

(c) The single post shores shall be spliced to prevent misalignment.

(d) The single post shores shall be adequately braced in two mutually perpendicular directions at the splice level. Each tier shall also be diagonally braced in the same two directions.

(e) Adjustment of single post shores to raise formwork shall not be made after the placement of concrete.

(f) Reshoring shall be erected, as the original forms and shores are removed, whenever the concrete is required to support loads in excess of its capacity.

#### NEW SECTION

**WAC 296-155-688 VERTICAL SLIP FORMS.** (1) Slip forms shall be designed and constructed, and the form movement carried out, under the immediate supervision of a person or persons experienced in slip form design and operation. Drawings prepared by a qualified engineer, showing the jack layout, formwork, working decks, and scaffolding, shall be available at the jobsite, and followed.

(2) The steel rods or pipe on which the jacks climb or by which the forms are lifted shall be designed for this purpose. Such rods must be adequately braced where not encased in concrete.

(3) Forms shall be designed to prevent excessive distortion of the structure during the jacking operation.

(4) All vertical slip forms shall be provided with scaffolding or work platforms completely encircling the area of placement.

(5) Jacks and vertical supports shall be positioned in such a manner that the loads do not exceed the rated capacity of the jacks.

(6) The jacks or other lifting devices shall be provided with mechanical dogs or other automatic holding devices to support the slip forms whenever failure of the power supply or lifting mechanism occurs.

(7) The form structure shall be maintained within all design tolerances specified for plumbness during the jacking operation.

(8) Lifting shall proceed steadily and uniformly and shall not exceed the predetermined safe rate of lift. A jacking system, which provides precise, simultaneous movement of the entire form in small preselected increments, is recommended for large structures.

(9) Workmen placing reinforcing steel shall wear safety belts tied off by lanyards or otherwise securely fastened when working above the scaffold level.

(10) The total allowable load on slip form platforms shall be determined by the design engineer and enforced by the field supervisor.

(11) Lateral and diagonal bracing of the forms shall be provided to prevent excessive distortion of the structure during the sliding operation.

(12) While the slide is in operation, the form structure shall be maintained in line and plumb.

(13) A field supervisor experienced in slip form construction shall be present on the deck at all times.

#### NEW SECTION

**WAC 296-155-689 PLACING AND REMOVAL OF FORMS.**

(1) When moved or raised by crane, cableway, A-frame, or similar mechanical device, forms shall be securely attached to slings having a minimum safety factor of five. Use of No. 9 tie wire, fiber rope, and similar makeshift lashing shall be prohibited.

(2) Taglines shall be used in moving panels or other large sections of forms by crane or hoist.

(3) All hoisting equipment, including hoisting cable used to raise and move forms shall have a minimum safety factor incorporated in the manufacturer's design, and the manufacturer's recommended loading shall not be exceeded. Field-fabricated or shop-fabricated hoisting equipment shall be designed or approved by a registered professional engineer, incorporating a minimum safety factor of five in its design. Panels and built-up form sections shall be equipped with metal hoisting brackets for attachment of slings.

(4) Forms intended for use where there is a free fall of over ten feet shall be equipped with adequate scaffolding and guardrails, or employees working on the forms shall be required to wear safety belts during forming and stripping operations.

(5) Vertical forms being raised or removed in sections shall not be released until adequately braced or secured. Overhead forms shall not be released until adequately braced or secured.

(6) Workmen or others at lower levels shall be protected from falling materials. Appropriate warning signs shall be erected along walkways.

(7) Forms shall not be removed until the concrete is cured. The concrete shall be adequately set in order to permit safe removal of the forms, shoring, and bracing. Engineer's specifications and local building codes shall be adhered to in determining the length of time forms should remain in place following concrete placement. In addition, tests shall be made on field-cured concrete specimens in order to insure that

concrete has obtained sufficient strength to safely support the load prior to removal of forms.

#### AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

**WAC 296-155-690 ((FORMS AND SHORING)) APPENDIX TO WAC 296-155-684 CAST IN PLACE CONCRETE. ((1) General provisions:**

(a) Formwork and shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during placement of concrete.

(b) Drawings or plans showing the jack layout, formwork, shoring, working decks, and scaffolding, shall be available at the jobsite.

(c) Stripped forms and shoring shall be removed and stockpiled promptly after stripping, in all areas in which persons are required to work or pass. Protruding nails, wire ties, and other form accessories not necessary to subsequent work shall be pulled, cut, or other means taken to eliminate the hazard.

(d) Imposition of any construction loads on the partially completed structure shall not be permitted unless such loading has been considered in the design and approved by the engineer-architect.

(e) When employees are present, watchmen or fireguards shall be provided where salamanders or similar heaters are used to provide winter protection.

(f) Where tarpaulins or other flammable materials are used to form protective enclosures for winter protection, the material shall be fire-resistant and installed so as to prevent contact with the heating unit.

(g) Form supports and wedges shall be checked during concrete placement to prevent distortion or failure.

##### (2) Form design:

(a) Any form, regardless of size, shall be planned in every particular and designed and constructed with an adequate factor of safety. In addition to computable loading, additional form pressures may result from impact during concrete placement, sudden lowering of temperatures retarding the set and increasing the liquid head or static pressure, vibrations of the form or concrete, uneven stressing resulting from failure or weakening of form members, or impact from concrete buckets or placing equipment. As a result, an adequate factor of safety is required to offset these unpredictable conditions.

(b) The thoroughness of planning and design shall be governed by the size, complexity, and intended use of the form. Formwork which is complex in nature or which will be subjected to unusually high concrete pressures shall be designed or approved for use by an engineer or experienced form designer.

##### (3) Loads:

(a) Vertical loads. Vertical loads consist of a dead load plus an allowance for live load. The weight of formwork together with the weight of freshly placed concrete is dead load. The live load consists of the weight of workmen, equipment, runways, and impact, and shall be computed in pounds per square foot (psf) of horizontal projection.

(b) Lateral loads. Braces and shores shall be designed to resist all foreseeable lateral loads such as wind, cable tensions, inclined supports, impact of placement, and starting and stopping of equipment. The assumed value of load due to wind, impact of concrete, and equipment acting in any direction at each floor line shall not be less than one hundred pounds per lineal foot of floor edge or two percent of total dead load of the floor, whichever is greater. Wall forms shall be designed for a minimum wind load of 10 psf, and bracing for wall forms should be designed for a lateral load of at least one hundred pounds per lineal foot of wall, applied at the top. Walls of unusual height require special consideration.

(c) Special loads. Formwork shall be designed for all special conditions of construction likely to occur, such as unsymmetrical placement of concrete, impact of machine-delivered concrete, uplift, and concentrated loads.

(d) Construction loads. Imposition of any construction loads on the partially completed structure shall not be permitted unless such loading has been considered in the design and approved by the engineer-architect.

##### (4) Placing and removal of forms:

(a) When moved or raised by crane, cableway, A-frame, or similar mechanical device, forms shall be securely attached to wire rope slings having a minimum safety factor of 5. Use of No. 9 tie wire, fiber rope, and similar makeshift lashing shall be prohibited.

(b) Taglines shall be used in moving panels or other large sections of forms by crane or hoist.

(c) All hoisting equipment, including hoisting cable used to raise and move forms shall have a minimum safety factor incorporated in the manufacturer's design, and the manufacturer's recommended loading shall not be exceeded. Field-fabricated or shop-fabricated hoisting equipment shall be designed or approved by a registered professional engineer, incorporating a minimum safety factor of five in its design. Panels and built-up form sections shall be equipped with metal hoisting brackets for attachment of slings.

(d) Forms intended for use where there is a free fall of over ten feet shall be equipped with adequate scaffolding and guardrails, or employees working on the forms shall be required to wear safety belts during forming and stripping operations.

(e) Vertical forms being raised or removed in sections shall not be released until adequately braced or secured. Overhead forms shall not be released until adequately braced or secured.

(f) Workmen or others at lower levels shall be protected from falling materials. Appropriate warning signs shall be erected along walkways.

(g) Forms shall not be removed until the concrete is cured. The concrete shall be adequately set in order to permit safe removal of the forms, shoring, and bracing. Engineer's specifications and local building codes shall be adhered to in determining the length of time forms should remain in place following concrete placement. In addition, tests shall be made on field-cured concrete specimens in order to insure that concrete has obtained sufficient strength to safely support the load prior to removal of forms.

(5) Vertical slip forms:

(a) Slip forms shall be designed and constructed, and the form movement carried out, under the immediate supervision of a person or persons experienced in slip form design and operation. Drawings prepared by a qualified engineer, showing the jack layout, formwork, working decks, and scaffolding, shall be available at the jobsite, and followed.

(b) The steel rods or pipe on which the jacks climb or by which the forms are lifted shall be designed for the purpose. Such rods must be adequately braced where not encased in concrete.

(c) Jacks and vertical supports shall be positioned in such a manner that the vertical loads are distributed equally and do not exceed the capacity of the jacks.

(d) The jacks or other lifting devices shall be provided with mechanical dogs or other automatic holding devices to protect against failure of the power supply or the lifting mechanism.

(e) Lifting shall proceed steadily and uniformly and shall not exceed the predetermined safe rate of lift. A jacking system, which provides precise, simultaneous movement of the entire form in small preselected increments, is recommended for large structures.

(f) Lateral and diagonal bracing of the forms shall be provided to prevent excessive distortion of the structure during the sliding operation.

(g) While the slide is in operation, the form structure shall be maintained in line and plumb.

(h) A field supervisor experienced in slipform construction shall be present on the deck at all times.

(i) All vertical lift forms shall be provided with scaffolding or work platforms completely encircling the area of placement.

(j) Workmen placing reinforcing steel shall wear safety belts tied off by lanyards or otherwise securely fastened when working above the scaffold level.

(k) The total allowable load on slip form platforms shall be determined by the design engineer and enforced by the field supervisor.

(6) Vertical shoring:

(a) Shoring installations constructed in accordance with this standard shall be designed in accordance with American National Standard Recommended Practice for Concrete Formwork, ANSI/ACI 347-68 or with the following publications of the Scaffolding & Shoring Institute: Recommended Standard Safety Code for Vertical Shoring, 1970; Single Post Shore Safety Rules, 1969, and Steel Frame Shoring Safety Rules, 1969.

(b) The shoring layout shall include all details of the specification, including unusual conditions such as heavy beams, sloping areas, ramps, and cantilevered slabs, as well as plan and elevation views.

(c) A copy of the shoring layout shall be available at the jobsite.

(d) A shoring layout shall be prepared or approved by a person qualified to analyze the loadings and stresses which are induced during the construction process.

(e) The minimum total design load for any shoring used in slab and beam structures shall be not less than one hundred pounds per square foot for the combined live and dead load regardless of slab thickness;

however, the minimum allowance for live load and formwork shall be not less than twenty pounds per square foot in addition to the weight of the concrete. Additional allowance for live load shall be added for special conditions other than when placing concrete for standard-type slabs and beams. Shoring shall also be designed to resist all foreseeable lateral loads such as wind, cable tensions, inclined supports, impact of placement, and starting and stopping of equipment. The assumed value of load due to wind, impact of concrete, and equipment acting in any direction at each floor line shall not be less than one hundred pounds per linear foot of floor edge or two percent of total dead load of the floor, whichever is greater. (See subsection (3)(b) of this section.)

(f) When motorized carts are used, the design load shall be increased twenty-five pounds per square foot.

(g) The design stresses for form lumber and timbers shall be within the tolerance of the grade, condition, and species of lumber used.

(h) The design stresses used for form lumber and timber shall be shown on all drawings, specifications, and shoring layouts.

(i) All load-carrying timber members of scaffold framing shall be a minimum of 1500 f (Stress Grade) construction grade lumber. All dimensions are nominal sizes except that where rough sizes are noted, only rough or undressed lumber of the size specified shall satisfy minimum requirements.

(j) The sills for shoring shall be sound, rigid, and capable of carrying the maximum intended load without settlement or displacement.

(k) When shoring from soil, an engineer or other qualified person shall determine that the soil is adequate to support the loads which are to be placed on it.

(l) Precautions shall be taken so that weather conditions do not change the load-carrying conditions of the soil below the design minimum.

(m) When shoring from fill or when excessive earth disturbance has occurred, an engineer or other qualified person shall supervise the compaction and reworking of the disturbed area and determine that it is capable of carrying the loads which are to be imposed upon it.

(n) Suitable sills shall be used on a pan or grid dome floor or any other floor system involving voids where vertical shoring equipment could concentrate an excessive load on a thin concrete section.

(o) When temporary storage of reinforcing rods, material, or equipment on top of formwork becomes necessary, these areas shall be sufficient to meet the loads.

(p) All shoring equipment shall be inspected prior to erection to determine that it is as specified in the shoring layout.

(q) Any equipment found to be damaged shall not be used for shoring.

(r) Erected shoring equipment shall be inspected immediately prior to, during, and immediately after the placement of concrete.

(s) If any deviation in the shoring plan is necessary because of field conditions, the person who prepared the shoring layout shall be consulted for his approval of the actual field setup before concrete is placed.

(t) The shoring setup shall be checked to insure that all details of the layout have been met.

(u) The completed shoring setup shall be a homogenous unit or units and shall have the specified bracing to give it lateral stability.

(v) The shoring setup shall be checked to make certain that bracing specified in the shoring layout for lateral stability is in place.

(w) All vertical shoring equipment shall be plumb. Maximum allowable deviation from the vertical is one-eighth inch in three feet. If this tolerance is exceeded, the shoring equipment shall not be used until readjusted within this limit.

(x) Upon inspection, shoring equipment that is found to be damaged or weakened shall be immediately removed and replaced.

(y) Shoring equipment shall not be released or removed until the approval of a qualified engineer has been received.

(z) Removal of shoring equipment shall be planned so that the equipment which is still in place is not overloaded.

(7) Additional vertical shoring requirements:

(a) Slabs or beams which are to be reshored should be allowed to take their actual permanent deflection before final adjustment of reshoring equipment is made.

(b) While the reshoring is underway, no construction loads shall be permitted on the partially-cured concrete.

(c) The allowable load on the supporting slab shall not be exceeded when reshoring.

(d) The reshoring shall be thoroughly checked to determine that it is properly placed and that it has the load capacity to support the areas that are being reshored.

## (8) Tubular welded frame shoring:

(a) Metal tubular frames used for shoring shall have allowable loads based on tests conducted according to the Recommended Procedure for Compression Testing of Scaffolds and Shores, Scaffolding & Shoring Institute, 1967.

(b) Design of shoring layouts shall be based on allowable loads which were obtained using the test procedures of (a) of this subsection and on at least a 2.5 to 1 safety factor.

(c) All metal frame shoring equipment shall be inspected before erection:

(d) Metal frame shoring equipment and accessories shall not be used if heavily rusted, bent, dented, rewelded, or having broken weldments or other defects:

(e) All locking devices on frames and braces shall be in good working order, coupling pins shall align the frame or panel legs, pivoted cross braces shall have their center pivot in place, and all components shall be in a condition similar to that of original manufacture:

(f) When checking the erected shoring frames with the shoring layout, the spacing between towers and cross brace spacing shall not exceed that shown on the layout, and all locking devices shall be in the closed position:

(g) Devices for attaching the external lateral stability bracing shall be securely fastened to the legs of the shoring frames:

(h) All baseplates, shoreheads, extension devices, or adjustment screws shall be in firm contact with the footing sill and the form material, and shall be snug against the legs of the frames:

(i) Eccentric loads on shore heads and similar members shall be prohibited unless the shore heads have been designed for such loading:

(j) When formwork is installed at an angle, or sloping, or when the surface shored from is sloping, the shoring shall be designed for such loading:

(k) Adjustment screws shall not be adjusted to raise formwork after the concrete is in place:

## (9) Tube and coupler shoring:

(a) Tube and coupler towers used for shoring shall have allowable loads based on tests conducted according to the Recommended Procedure for Compression Testing of Scaffolds and Shores, Scaffolding & Shoring Institute, 1967:

(b) Design of shoring layouts shall be based on working loads which were obtained using the test procedures of (a) of this subsection and on at least a 2.5 to 1 safety factor:

(c) All tube and coupler components shall be inspected before being used:

(d) Tubes of shoring structures shall not be used if heavily rusted, bent, dented, or having other defects:

(e) Couplers (clamps) shall not be used if deformed, broken, or having defective or missing threads on bolts, or other defects:

(f) The material used for the couplers (clamps) shall be of a structural type such as drop forged steel, malleable iron, or structural grade aluminum. Gray cast iron shall not be used:

(g) When checking the erected shoring towers with the shoring layout, the spacing between posts shall not exceed that shown on the layout, and all interlocking of tubular members and tightness of couplers should be checked:

(h) All baseplates, shore heads, extension devices, or adjustment screws shall be in firm contact with the footing sill and the form material, and shall be snug against the posts:

(i) Eccentric loads on shore heads and similar members shall be prohibited unless the shore heads have been designed for such loading:

(j) Special precautions shall be taken when formwork is at angles, or sloping, or when the surface shored from is sloping:

(k) Adjustment screws shall not be adjusted to raise formwork after the concrete is in place:

## (10) Single post shores:

(a) When checking erected single post shores with the shoring layout, the spacing between shores in either direction shall not exceed that shown on the layout, and all clamps, screws, pins, and all other components shall be in the closed or engaged position:

(b) For stability, single post shores shall be horizontally braced in both the longitudinal and transverse directions. Diagonal bracing shall also be installed. Such bracing shall be installed as the shores are being erected:

(c) Devices which attach to the external lateral stability bracing shall be securely fastened to the single post shores:

(d) All baseplates or shore heads of single post shores shall be in firm contact with the footing sill and the form material:

(e) Whenever single post shores are used in more than one tier, the layout shall be designed and inspected by a structural engineer:

(f) Eccentric loads on shore heads shall be prohibited unless the shore heads have been designed for such loading:

(g) When formwork is at an angle, or sloping, or when the surface shored from is sloping, the shoring shall be designed for such loading:

(h) Adjustment of single post shores to raise formwork shall not be made after concrete is in place:

(i) Respecting fabricated single post shores, the following shall apply:

(i) The clamp used for adjustable timber single post shores shall have working load ratings based on tests conducted according to the standard test procedures for fabricated single post shores in Recommended Procedure for Compression Testing of Scaffolds and Shores, Scaffolding & Shoring Institute, 1967, and on at least a 3 to 1 safety factor:

(ii) Shoring layouts shall be made using working loads which were obtained using the test procedures of (i)(i) of this subsection, and on at least a 3 to 1 safety factor:

(iii) All fabricated single post shores shall be inspected before being used:

(iv) Fabricated single post shores shall not be used if heavily rusted, bent, dented, rewelded, or having broken weldments or other defects. If they contain timber, they shall not be used if timber is split, cut, has sections removed, is rotted, or otherwise structurally damaged:

(v) All clamps, screws, pins, threads, and all other components shall be in a condition similar to that of original manufacture:

(j) Respecting adjustable timber single post shores, the following shall apply:

(i) The clamp used for adjustable timber single post shores shall have working load ratings based on tests conducted according to the standard test procedures for fabricated single post shores in Recommended Procedure for Compression Testing of Scaffolds and Shores, Scaffolding & Shoring Institute, 1967, and on at least a 3 to 1 safety factor:

(ii) Timber used shall have the safety factor and allowable working load for each grade and species as recommended in the Tables for wooden columns in the Wood Structural Design Data Book, National Forest Products Association, 1970:

(iii) The shoring layout shall be made using the allowable load obtained by using the test procedure for the clamp or Tables for timber referred to in (j)(i) and (ii) of this subsection:

(iv) All timber and adjusting devices to be used for adjustable timber single post shores shall be inspected before erection:

(v) Timber shall not be used if it is split, cut, has sections removed, is rotted, or is otherwise structurally damaged:

(vi) Adjusting devices shall not be used if heavily rusted, bent, dented, rewelded, or having broken weldments or other defects:

(vii) All nails used to secure bracing on adjustable timber single post shores shall be driven home and the point of the nail bent over:

(k) Respecting timber single post shores, the following shall apply:

(i) Timber used as single post shores shall have the safety factor and allowable working load for each grade and species as recommended in the Tables for wooden columns in the Wood Structural Design Data Book, National Forest Products Association, 1970:

(ii) The shoring layout shall be prepared by using working loads obtained by using the tables referred to in (k)(i) of this subsection:

(iii) All timber to be used for single post shoring shall be inspected before erection:

(iv) Timber shall not be used if it is split, cut, has sections removed, is rotted, or is otherwise structurally damaged:

(v) All nails used to secure bracing on timber single post shores shall be driven home and the point of the nail bent over.)) General requirements for formwork.

(This Appendix is nonmandatory.)

This Appendix serves as a nonmandatory guideline to assist employers in complying with the formwork requirements in §1926.703(a)(1). Formwork which has been designed, fabricated, erected, braced, supported, and maintained in accordance with Sections 6 and 7 of the American National Standard for Construction and Demolition Operations—Concrete and Masonry Work, ANSI A10.9-1983, shall be deemed to be in compliance with the provision of §1926.703(a)(1).

(Information collection requirements contained in paragraph (a)(2) were approved by the Office of Management and Budget under control number 1218-0095.)

(1) It shall be the responsibility of the contractor to use accessories which are designed to be compatible.

(2) The design capacity of all lifting devices and accessories shall be known. The devices and accessories with the appropriate capacity shall be used.

(3) Prior to pouring the panels of a tilt-up type construction job, a set of plans or job specifications, including lifting procedures, shall be drawn up.

(a) These plans shall be at the job site and made available upon request.

(b) Any changes made in the rigging procedure of a tilt-up panel or slab shall provide the same degree of safety as required by the original plans.

(c) The plans or specifications shall contain the following information:

(i) The type, size, and location of all lifting inserts.

(ii) The type, size, and location of all brace inserts or fittings for guy wires in each panel and floor or support.

(iii) The size of braces or guys to be used.

(iv) The compression strength which concrete panels must attain prior to being lifted.

(4) The following conditions shall be included in the erection process and shall be incorporated in the design plan:

(a) Braces and all associated components of the bracing system shall be designed to incorporate a safety factor of one and one-half to resist any normal stresses to which they may be subjected, including normal high wind velocity pressures for the area.

(b) Precast concrete wall units, structural framing, and tilt-up wall panels shall be adequately supported to prevent overturning and to prevent collapse until permanent connections are completed.

(c) Floor braces used to secure panel sections shall be placed at an angle of not less than forty-five degrees or more than sixty degrees from horizontal when physically possible to install in this manner.

(d) The bracing on all panel sections shall be installed in such a manner as to prevent the panel from accidentally rotating.

(e) Each panel section not secured by other means shall have a minimum of two braces. The braces shall be installed in such a manner as to evenly distribute the load or guy wires, when properly installed, may be used in lieu of stiff leg braces.

(f) If braces are attached to a panel or slab by bolts tightened into inserts installed in holes drilled in concrete, the type of inserts used and method of installation shall be such as to develop the required strength to be maintained for the bracing system.

(g) Inserts to be installed for lifting sections of a panel shall be designed mechanically to maintain a safety factor of three.

(h) Lifting inserts which are embedded or otherwise attached to precast concrete members, other than the tilt-up members, shall be capable of supporting at least four times the maximum intended load applied or transmitted to them.

(i) The compression strength of the concrete shall be such that when the proper type, size, and amount of inserts are installed a minimum safety factor of two will be maintained.

(j) Lifting hardware such as spreader bars, slings, shackles, etc., shall be designed for a safety factor of not less than five and shall not be used whenever the safety factor is reduced below four.

(k) Lifting bolts or other lifting devices which have been bent, worn, or are defective shall be discarded.

(l) The upper and lower sections of telescoping type braces shall be secured by high tensile steel pins or bolts which provide adequate shear strength and which will positively secure against accidental removal.

(m) Manufactured products shall not be altered in a manner which would reduce the safe working load to less than its original value.

(n) Inserts shall be positioned so that bolts, or lifting devices, when inserted, will be perpendicular to the face on which they are placed.

(S) Design of the panels and layout of the pour shall be made in such a manner so that when picking, the top of the panel will be away from the crane. If this is not possible, the contractor shall consult with a representative of the department and the crane company involved to determine the procedure to be followed in lifting and placing in its permanent position safely. Panels shall be lifted and handled in such a manner that they will not strike the hoisting equipment, in case of failure.

(a) Physical stops shall be provided which will prevent the bottom edge of a panel being set from slipping off the edge of its supporting structure.

(b) Tilt-up panels shall not be set when there is a possibility that wind velocity would create a hazardous condition.

(c) A qualified signalman shall be designated and shall consult with the crane operator on lifting procedures prior to making the pick. The

signalman shall be located in such a position during the pick of the panel that he can observe both the crane operator and the employees working in the immediate area.

(d) During the lifting process, workers shall keep clear of the under side of the panel.

(e) Persons not involved in the lifting process shall be kept clear of the hazardous area near where panels are being raised, moved, or placed.

(f) If braces must be removed temporarily during construction, other effective means shall be provided to safely support the panel during the interim period.

(g) Each panel shall be properly braced or otherwise secured prior to removal of the hoisting equipment.

(h) Short panels or sections not otherwise supported by floor, footings, columns or other structure, shall be properly shored.

## NEW SECTION

WAC 296-155-691 PRECAST CONCRETE AND TILT-UP OPERATIONS. (1) It shall be the responsibility of the contractor to use accessories which are designed to be compatible.

(2) The design capacity of all lifting devices and accessories shall be known. The devices and accessories with the appropriate capacity shall be used.

(3) Prior to pouring the panels of a tilt-up type construction job, a set of plans or job specifications, including lifting procedures, shall be drawn up.

(a) These plans shall be at the job site and made available upon request.

(b) Any changes made in the rigging procedure of a tilt-up panel or slab shall provide the same degree of safety as required by the original plans.

(c) The plans or specifications shall contain the following information:

(i) The type, size, and location of all lifting inserts.

(ii) The type, size, and location of all brace inserts or fittings for guy wires in each panel and floor or support.

(iii) The size of braces or guys to be used.

(iv) The compression strength which concrete panels must attain prior to being lifted.

(4) The following conditions shall be included in the erection process and shall be incorporated in the design plan:

(a) Braces and all associated components of the bracing system shall be designed to incorporate a safety factor of one and one-half to resist any normal stresses to which they may be subjected, including normal high wind velocity pressures for the area.

(b) Precast concrete wall units, structural framing, and tilt-up wall panels shall be adequately supported to prevent overturning and to prevent collapse until permanent connections are completed.

(c) Floor braces used to secure panel sections shall be placed at an angle of not less than forty-five degrees or more than sixty degrees from horizontal when physically possible to install in this manner.

(d) The bracing on all panel sections shall be installed in such a manner as to prevent the panel from accidentally rotating.

(e) Each panel section not secured by other means shall have a minimum of two braces. The braces shall be installed in such a manner as to evenly distribute the load or guy wires, when properly installed, may be used in lieu of stiff leg braces.

(f) If braces are attached to a panel or slab by bolts tightened into inserts installed in holes drilled in concrete, the type of inserts used and method of installation shall be such as to develop the required strength to be maintained for the bracing system.

(g) Inserts to be installed for lifting sections of a panel shall be designed mechanically to maintain a safety factor of three.

(h) Lifting inserts which are embedded or otherwise attached to precast concrete members, other than the tilt-up members, shall be capable of supporting at least four times the maximum intended load applied or transmitted to them.

(i) The compression strength of the concrete shall be such that when the proper type, size, and amount of inserts are installed a minimum safety factor of two will be maintained.

(j) Lifting hardware such as spreader bars, slings, shackles, etc., shall be designed for a safety factor of not less than five and shall not be used whenever the safety factor is reduced below four.

(k) Lifting bolts or other lifting devices which have been bent, worn, or are defective shall be discarded.

(l) The upper and lower sections of telescoping type braces shall be secured by high tensile steel pins or bolts which provide adequate shear strength and which will positively secure against accidental removal.

(m) Manufactured products shall not be altered in a manner which would reduce the safe working load to less than its original value.

(n) Inserts shall be positioned so that bolts, or lifting devices, when inserted, will be perpendicular to the face on which they are placed.

(5) Design of the panels and layout of the pour shall be made in such a manner so that when picking, the top of the panel will be away from the crane. If this is not possible, the contractor shall consult with a representative of the department and the crane company involved to determine the procedure to be followed in lifting and placing in its permanent position safely. Panels shall be lifted and handled in such a manner that they will not strike the hoisting equipment, in case of failure.

(a) Physical stops shall be provided which will prevent the bottom edge of a panel being set from slipping off the edge of its supporting structure.

(b) Tilt-up panels shall not be set when there is a possibility that wind velocity would create a hazardous condition.

(c) A qualified signalman shall be designated and shall consult with the crane operator on lifting procedures prior to making the pick. The signalman shall be located in such a position during the pick of the panel that he can observe both the crane operator and the employees working in the immediate area.

(d) During the lifting process, workers shall keep clear of the under side of the panel.

(e) Persons not involved in the lifting process shall be kept clear of the hazardous area near where panels are being raised, moved or placed.

(f) If braces must be removed temporarily during construction, other effective means shall be provided to safely support the panel during the interim period.

(g) Each panel shall be properly braced or otherwise secured prior to removal of the hoisting equipment.

(h) Short panels or sections not otherwise supported by floor, footings, columns or other structure, shall be properly shored.

## NEW SECTION

**WAC 296-155-692 REQUIREMENTS FOR LIFT-SLAB OPERATIONS.** (1) In addition to the general requirements of this section, employers engaged in lift-slab operations shall comply with the existing specific requirements for lift-slab operations which are prescribed in ANSI A10.9-1970. These requirements, found in Section 11 of the American National Standard Safety Requirements for Concrete Construction and Masonry Work, ANSI A10.9-1970, are reprinted in the Appendix to this section. In addition, there are applicable requirements in WAC 296-155-375(1) through (3) which apply to jacks in general, and jacks used specifically in lift-slab construction.

(2) Lift-slab operations shall be designed and planned by a qualified professional engineer or architect. Such plans and designs shall include detailed instructions and sketches indicating the prescribed method of erection.

### (3) Jacking equipment.

(a) Jacking equipment shall not be loaded beyond its safe working capacity.

(b) The threaded rods and other members that transmit loads to the jacks shall have a minimum safety factor of 2.5.

(c) Jacks shall be designed and installed so they will not continue to lift when overloaded.

(d) Jacks shall be installed with a safety device which will enable them to continue to support the load in any position should jack malfunction and lose its lifting ability.

## NEW SECTION

**WAC 296-155-694 APPENDIX TO WAC 296-155-692 LIFT-SLAB OPERATIONS.** (Reprinted from ANSI A10.9-1970.)

(This Appendix is mandatory.)

### Section 11. Lift-Slab Operations.

11.1 General. The safety requirements and recommendations in Section 11 apply specifically to lift-slab construction operations.

11.2 Design and Planning. Lift-slab operations shall be designed and planned by a qualified professional engineer or architect. Such plans and designs shall include detailed instructions and sketches indicating the prescribed method of erection.

### 11.3 Jacking Equipment.

11.3.1 Jacking equipment shall not be loaded beyond its safe working capacity, and then threaded rods and other members that transmit loads to the jacks shall have a minimum safety factor of 2.5. Jacking equipment used in lift-slab operations shall meet the criteria in 11.3.1 through 11.3.4. (Note: ANSI has interpreted this provision to mean that the safety factor of 2.5 must be met for all jacking components such as jacks, threaded rods, lifting nuts, lifting angles, as well as shearheads, columns and footings.)

11.3.2 Jacks shall be so designed and installed so that they will not continue to lift when overloaded.

11.3.3 Jacks shall be installed with a safety device which will enable them to continue to support the load in any position should the jack malfunction and lose its lifting ability.

11.3.4 The maximum number of manually-controlled jacks on one slab shall be limited to 14, and in no event should the number be too great to permit the operator to maintain the slab level within specified tolerances.

11.4 Uniform Lifting. Jacking operations shall be synchronized in such a manner as to insure even and uniform lifting of the slab. During lifting, all points of the slab support shall be kept within one-half inch of that needed to maintain the slab in a level position. If leveling is automatically controlled, a device shall be installed which will stop the operation when the one-half-inch tolerance is exceeded or when there is a malfunction in the jacking system. If level is maintained by manual controls, such controls shall be located in a central location and attended by a trained operator while lifting is in progress.

11.5 Falling Hazard. No one shall be permitted under the slab during jacking operations. (Note: ANSI has interpreted this provision as follows: "No one is permitted in the building during jacking operations except those employees required for the jacking operation and to secure slabs.)

## AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

**WAC 296-155-695 MISCELLANEOUS CONCRETE CONSTRUCTION.** (1) General provisions.

(a) Deadheads used in post tensioning of tendons shall be the type that will increase the grip on the cable as the tension is increased.

(b) Proper means and equipment shall be used to prevent the over-tensioning of the tendons.

(c) Only qualified workers shall perform this type work.

(2) Prestressed and poststressed concrete operations.

(a) Anchor fitting. In utilizing anchor fittings for tensioned strands, the recommendations and instructions of the supplier concerning installation, maintenance, and replacement shall be followed.

(b) Tools and strand vices shall be kept clean and in good repair.

(c) Safety factor.

(i) Expendable strand deflection devices used to pretension concrete members shall have a minimum safety factor of two.

(ii) Reusable strand deflection devices shall have a minimum safety factor of three.

(d) Jacking operations.

(i) During jacking operations of any tensioning element or group of tensioning elements, the anchors shall be kept turned up close to the anchorplate.

(ii) No one shall be permitted to stand in line or directly over the jacking equipment during tensioning operations.

(iii) Employees shall not stand behind the jack during tensioning operations.

(e) Jacking and pulling equipment. Pulling headers, bolts, and hydraulic rams shall be frequently inspected for indication of fatigue, and the threads on bolts and nuts inspected for diminishing cross section.

(f) Storage. Stressed members shall be stored on a level base and adequately supported during storage and transportation to prevent tipping.

(g) Rigging.

(i) Stressed members shall be handled at pick points specifically designated on the manufacturer's drawings.

(ii) Stressed members shall be lifted with lifting devices recommended by the manufacturer or the engineer in charge.

(iii) No one shall be allowed under stressed members during lifting and erection.

((3) Lift-slab operations:

(a) Design and planning. Lift-slab operations shall be designed and planned by a qualified professional engineer or architect. Such plans and designs shall include detailed instructions and sketches indicating the prescribed method of erection.

(b) Jacking equipment:

- (i) Jacking equipment shall not be loaded beyond its safe working capacity.
- (ii) The threaded rods and other members that transmit loads to the jacks shall have a minimum safety factor of 2.5.
- (iii) Jacks shall be designed and installed so they will not continue to lift when overloaded.
- (iv) Jacks shall be installed with a safety device which will enable them to continue to support the load in any position should jack malfunction and lose its lifting ability.
- (4) Precast concrete and tilt-up operations:
  - (a) It shall be the responsibility of the contractor to use accessories which are designed to be compatible.
  - (b) The design capacity of all lifting devices and accessories shall be known. The devices and accessories with the appropriate capacity shall be used.
  - (c) Prior to pouring the panels of a tilt-up type construction job, a set of plans or job specifications, including lifting procedures, shall be drawn up:
    - (i) These plans shall be at the job site and made available upon request.
    - (ii) Any changes made in the rigging procedure of a tilt-up panel or slab shall provide the same degree of safety as required by the original plans.
    - (iii) The plans or specifications shall contain the following information:
      - (A) The type, size and location of all lifting inserts.
      - (B) The type, size and location of all brace inserts or fittings for guy wires in each panel and floor or support.
      - (C) The size of braces or guys to be used.
      - (D) The compression strength which concrete panels must attain prior to being lifted.
      - (E) The following conditions shall be included in the erection process and shall be incorporated in the design plan:
        - (i) Braces and all associated components of the bracing system shall be designed to incorporate a safety factor of one and one-half to resist any normal stresses to which they may be subjected, including normal high wind velocity pressures for the area.
        - (ii) Floor braces used to secure panel sections shall be placed at an angle of not less than forty-five degrees or more than sixty degrees from horizontal when physically possible to install in this manner.
        - (iii) The bracing on all panel sections shall be installed in such a manner as to prevent the panel from accidentally rotating.
        - (iv) Each panel section not secured by other means shall have a minimum of two braces. The braces shall be installed in such a manner as to evenly distribute the load or guy wires, when properly installed, may be used in lieu of stiff leg braces.
        - (v) If braces are attached to a panel or slab by bolts tightened into inserts installed in holes drilled in concrete, the type of inserts used and method of installation shall be such as to develop the required strength to be maintained for the bracing system.
        - (vi) Inserts to be installed for lifting sections of a panel shall be designed mechanically to maintain a safety factor of three.
        - (vii) The compression strength of the concrete shall be such that when the proper type, size and amount of inserts are installed a minimum safety factor of two will be maintained.
        - (e) Lifting hardware such as spreader bars, slings, shackles, etc., shall be designed for a safety factor of not less than five and shall not be used whenever the safety factor is reduced below four.
        - (f) Lifting bolts or other lifting devices which have been bent, worn, or are defective shall be discarded.
        - (g) The upper and lower sections of telescoping type braces shall be secured by high tensile steel pins or bolts which provide adequate shear strength and which will positively secure against accidental removal.
        - (h) Manufactured products shall not be altered in a manner which would reduce the safe working load to less than its original value.
        - (i) Inserts shall be positioned so that bolts, or lifting devices, when inserted, will be perpendicular to the face on which they are placed.
        - (j) Design of the panels and layout of the pour shall be made in such a manner so that when picking, the top of the panel will be away from the crane. If this is not possible, the contractor shall consult with a representative of the department and the crane company involved to determine the procedure to be followed in lifting and placing in its permanent position safely. Panels shall be lifted and handled in such a manner that they will not strike the hoisting equipment, in case of failure.

(k) Physical stops shall be provided which will prevent the bottom edge of a panel being set from slipping off the edge of its supporting structure.

(l) Tilt-up panels shall not be set when there is a possibility that wind velocity would create a hazardous condition.

(m) A qualified signalman shall be designated and shall consult with the crane operator on lifting procedures prior to making the pick. The signalman shall be located in such a position during the pick of the panel that he can observe both the crane operator and the employees working in the immediate area.

(n) During the lifting process, workers shall keep clear of the under side of the panel.

(o) Persons not involved in the lifting process shall be kept clear of the hazardous area near where panels are being raised, moved or placed.

(p) If braces must be removed temporarily during construction, other effective means shall be provided to safely support the panel during the interim period.

(q) Each panel shall be properly braced or otherwise secured prior to removal of the hoisting equipment.

(r) Short panels or sections not otherwise supported by floor, footings, columns or other structure, shall be properly shored.)

#### NEW SECTION

WAC 296-155-697 REQUIREMENTS FOR MASONRY CONSTRUCTION. (1) A limited access zone shall be established whenever a masonry wall is being constructed. The limited access zone shall conform to the following:

(2) The limited access zone shall be established prior to the start of construction of the wall.

(3) The limited access zone shall be equal to the height of the wall to be constructed plus four feet, and shall run the entire length of the wall.

(4) The limited access zone shall be established on the side of the wall which will be unscathed.

(5) The limited access zone shall be restricted to entry by employees actively engaged in constructing the wall. No other employees shall be permitted to enter the zone.

(6) The limited access zone shall remain in place until the wall is adequately supported to prevent overturning and to prevent collapse unless the height of wall is over eight feet, in which case, the limited access zone shall remain in place until the requirements of subsection (9) of this section have been met.

(7) All masonry walls over eight feet in height shall be adequately braced to prevent overturning and to prevent collapse unless the wall is adequately supported so that it will not overturn or collapse. The bracing shall remain in place until permanent supporting elements of the structure are in place.

(8) Employees engaged in cutting or chipping shall wear suitable eye protection in accordance with WAC 296-155-215.

(9) Masonry saws shall be constructed, guarded and operated in accordance with ANSI A10.9-1983. Safety requirements for concrete construction and masonry work and in accordance with WAC 296-155-367.

(10) Persons charged with operation of derricks used for stone setting shall be qualified in that type of work.

(11) Stone shall be set directly on the wall by the derrick.

(12) Breast derricks when used in setting stone shall be secured against a slip or kick back and guyed with wire cables. Provide hold down line to prevent derrick from falling back.

(13) Stone cutters shall wear goggles while trimming stone or cutting holes.

(14) Pins shall be tested for security before stone is hoisted.

(15) Hoisting cables shall be protected from chafing and wearing over corners.

(16) Mason's mortar mixers shall have a bar-type grill installed over the mixer opening. The guard shall be installed with an automatic disconnect switch to stop the mixer tub rotation and prevent the mixer from starting whenever the guard is not in place.

#### NEW SECTION

WAC 296-155-699 APPENDIX A TO SUBPART Q—REFERENCES TO SUBPART Q OF PART 1926. (This Appendix is nonmandatory.)

The following nonmandatory references provide information which can be helpful in understanding and complying with the requirements contained in Subpart Q.

- Accident Prevention Manual for Industrial Operations; Eighth Edition; National Safety Council.
- Building Code Requirements for Reinforced Concrete (ACI 318-83).
- Formwork for Concrete (ACI SP-4).
- Recommended Practice for Concrete Formwork (ACI 347-78).
- Safety Requirements for Concrete and Masonry Work (ANSI A10.9-1983).
- Standard Test Method for Compressive Strength of Cylindrical Concrete Specimens (ASTM C39-86).
- Standard Test Method for Making and Curing Concrete Test Specimens in the Field (ASTM C31-85).
- Standard Test Method for Penetration Resistance of Hardened Concrete (ASTM C803-82).
- Standard Test Method for Compressive Strength of Concrete Cylinders Cast In-Place in Cylindrical Molds (ASTM C873-85).
- Standard Method for Developing Early Age Compressive Test Values and Projecting Later Age Strengths (ASTM C918-80).
- Recommended Practice for Inspection and Testing Agencies for Concrete, Steel and Bituminous Materials as Used in Construction (ASTM E329-77).
- Method of Making and Curing Concrete Test Specimens in the Laboratory (ASTM C192-88).
- Methods of Obtaining and Testing Drilled Cores and Sawed Beams of Concrete (ASTM C42-87).
- Methods of Securing, Preparing and Testing Specimens from Hardened Lightweight Insulating Concrete for Compressive Strength (ASTM C513-86).
- Test Method for Comprehensive Strength of Lightweight Insulating Concrete (ASTM C495-86).
- Method of Making, Accelerating Curing, and Testing of Concrete Compression Test Specimens (ASTM C684-81).
- Test Method for Compressive Strength of Concrete Using Portions of Beams Broken in Flexure (ASTM C116-68 (1980)).

#### REPEALER

The following section of the Washington Administrative Code is repealed:

#### WAC 296-155-750 MASONRY CONSTRUCTION.

#### AMENDATORY SECTION (Amending Order 74-18, filed 5/6/74)

WAC 296-303-02007 MISCELLANEOUS MACHINES AND EQUIPMENT. (1) Sewing machine. Each sewing machine shall be equipped with a guard permanently attached to the machine, so that the operator's fingers cannot pass under the needle. It shall be of such form that the needle can be conveniently threaded without removing the guard. This requirement will not apply to domestic-type sewing machines having a presser-foot which is in the "down" position during operation of the machine.

(2) Exhaust or ventilating fans. Each exhaust or ventilating fan within ((7)) seven feet of the floor or working platform shall be completely covered with wire mesh of not less than No. 16 gage, and with openings that will reject a ball one-half inch in diameter.

(3) Steam pipes.

(a) All steam pipes that are within ((7)) seven feet of the floor or working platform, and with which the worker may come into contact, shall be insulated or covered with a heat-resistant material or shall be guarded to prevent direct contact with the worker.

(b) Where pressure-reducing valves are used, one or more relief or safety valves shall be provided on the low-pressure side of the reducing valve, in case the piping or equipment on the low-pressure side does not meet the requirements for full initial pressure. The relief or safety valve shall be located adjacent to, or as close as possible to, the reducing valve. Relief and safety valves vented to the atmosphere shall be so constructed as to prevent injury or damage caused by fluid escaping from relief or safety valves. The vents shall be of ample size and as short and direct as possible. The combined discharge capacity of the relief valves shall be such that the pressure rating of the lower-pressure piping and equipment will not be exceeded if the reducing valve sticks or fails to open.

#### AMENDATORY SECTION (Amending Order 74-18, filed 5/6/74)

##### WAC 296-303-040 STARTING AND STOPPING DEVICES.

(1) Each power-driven machine shall be provided with means for disconnecting from the source of power. Starting and stopping devices for machines shall be so located as to be operable from the front of the machine, and so constructed as to allow proper guarding of belts and pulleys.

(2) Doors of washing machines, extractors, and tumbler/shaker dryer machines, shall have a cut-off micro switch or other method to shut-off power when loading doors are opened, making inner cylinder, tumbler, or shaker mechanisms inoperative while the door is open. In those situations where the cylinder or mechanism continues to rotate/move, and present a hazard after the power is off, an interlocking device, breaking switch, or a time-delay switch is additionally required to prevent injury.

#### AMENDATORY SECTION (Amending Order 75-6, filed 3/10/75)

WAC 296-304-010 SCOPE AND APPLICATION. (1) The provisions and standards of the general safety and health standards, chapter 296-24 WAC, and such other codes and standards as are promulgated by the division of industrial safety and health which are applicable to all industries, shall be applicable in the ship repairing, shipbuilding, or shipbreaking industries whenever the employees are covered under the Washington State Industrial Safety and Health Act, chapter 49.17 RCW. The rules of this chapter and the rules of the aforementioned chapter 296-24 WAC are applicable to all ship repairing, shipbuilding, and shipbreaking industries and operations, provided that such rules shall not be applicable to those operations under the exclusive safety jurisdiction of the federal government.

(2) The responsibility for compliance with these regulations is placed upon "employers" as defined in WAC 296-304-01001(3).

(3) It is not the intent of these regulations to place additional responsibilities or duties on owners, operators, agents or masters of vessels unless such persons are acting as employers, nor is it the intent of these regulations to relieve such owners, operators, agents or masters of vessels from responsibilities or duties now placed upon them by law, regulation or custom.

(4) The responsibilities placed upon the competent person herein shall be deemed to be the responsibilities of the employer.

(5) Safety standards for ship repairing, shipbuilding, and shipbreaking are written, promulgated, and applicable to workplace hazards found in shipyards and boatyards located on navigable waters, provided such installations are not under the exclusive safety jurisdiction of the federal government or the United States Coast Guard. Such operations shall include adjoining shore installations such as wharves, drydocks, graving docks, terminals, building ways, marine railways, and other adjoining areas customarily used by the employer in ship repairing, shipbuilding, or shipbreaking operations.

(6) Small vessel manufacturing operations not located on navigable waters shall be cited from General Safety and Health Standards, chapter 296-24 WAC.

#### AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77)

WAC 296-305-025 EMPLOYER'S RESPONSIBILITY. (1) It shall be the responsibility of the employer to establish and supervise:

(a) A safe and healthful working environment, as it applies to non combat conditions or to combat conditions at the fire scene after fire has been extinguished, as determined by the officer in charge.

(b) An accident prevention program as required by this chapter.

(c) Programs for training employees in the fundamentals of accident prevention.

(2) The employer shall be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers or other suitable sources.

(3) Alcoholic beverages shall not be allowed in station houses, except at those times when station houses are used as community centers.

(4) Controlled substances shall not be allowed in station houses, with the exception of those used by the profession to be administered to patients or medication prescribed by a physician, unless such prescribed medication would impair the performance of the individual.

(5) A bulletin board or posting area exclusively for safety and large enough to display the required safety poster (Form-WISHA-1) and

other safety education material shall be provided. A bulletin board of "white background" and "green trim" is recommended.

(6) The employer shall develop and maintain a hazard communication program as required by WAC 296-62-054 through 296-62-05427 which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

**Chapter 296-306 WAC  
SAFETY STANDARDS FOR ((AGRICULTURAL CODE)) AG-  
RICULTURE**

**AMENDATORY SECTION** (Amending Order 88-11, filed 7/6/88)

WAC 296-306-010 PURPOSE AND SCOPE. (1) The standards in this chapter apply to all agricultural operations with one or more employees, when such employees are covered by the Washington Industrial Safety and Health Act (WISHA).

(2) In the event that the provisions of this chapter conflict with the provisions contained in any other chapter of Title 296 WAC, this chapter shall prevail. Sections of other chapters 296-24 WAC apply only when specifically referenced in this chapter.

(3) When employees are assigned to perform tasks other than those directly related to agricultural operations, the proper chapter of Title 296 WAC shall apply.

(4) The air contaminant standards contained in WAC 296-62-073 through 296-62-07389 and 296-62-075 do not apply to chapter 296-306 WAC, Safety standards for agricultural code.

(5) The requirement that the employer shall develop and maintain a hazard communication program as required by WAC 296-62-054 through 296-62-05427 which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed or may become exposed in the course of their employment, shall apply to chapter 296-306 WAC.

Note: Such assignments may involve logging, mining, sawmills, etc., when the products of such activities are removed from the farm site for commercial distribution.

**AMENDATORY SECTION** (Amending Order 76-28, filed 9/28/76)

**WAC 296-306-165 GENERAL REQUIREMENTS FOR ALL AGRICULTURAL EQUIPMENT.** (1) Definitions.

(a) "Agricultural equipment" means equipment used in production or handling of agricultural products.

(b) "Agricultural field equipment" means tractors, self-propelled implements, implements and combinations thereof used in agricultural operations.

(c) "Agricultural tractor" means a two-wheel or four-wheel drive type vehicle, or a track vehicle, of more than ((20)) twenty net engine horsepower (continuous brake power rating per Society of Automotive Engineers (SAE) J816b - or the power recommended by the manufacturer for satisfactory operation under the manufacturer specified continuous duty conditions), designed to furnish the power to pull, carry, propel, or drive implements that are designed for agriculture. All self-propelled implements are excluded.

(d) "Augers" means screw conveyors and related accessories designed primarily for conveying agricultural materials on farms.

(e) "Constant-running drives" means those drives which continue to rotate when the engine is running. (With all clutches disengaged.)

(f) "Farm field equipment" means tractors or implements, including self-propelled implements, or any combination thereof used in agricultural operations.

(g) "Farmstead equipment" means agricultural equipment normally used in a stationary manner. This includes, but is not limited to, materials handling equipment and accessories for such equipment whether or not the equipment is an integral part of a building.

(h) "Guarding by location" means a component may be considered guarded by location when, because of its location, it does not present a hazard during operation or maintenance. A component seven feet or more above a working surface is considered guarded by location.

(i) "Ground-drive equipment" means equipment using power supplied by its pulled wheels to move gears, chains, sprockets, belts, pulleys, augers, tines, etc.

(j) "Low profile tractor" means a ((wheeled tractor)) wheel or track equipped vehicle possessing the following characteristics:

(i) The front wheel spacing is equal to the rear wheel spacing, as measured from the centerline of each right wheel to the centerline of the corresponding left wheel; or rear wheel spacing may be increased

to gain stability, but in no instance shall the front wheel spacing be less than shown in Table I.

TABLE I

| HORSEPOWER  | MINIMUM SPAN |
|-------------|--------------|
| 20 - 30     | 48 Inches    |
| 31 - 40     | 50 Inches    |
| 41 - 50     | 52 Inches    |
| 51 - 60     | 54 Inches    |
| 61 - 70     | 56 Inches    |
| 71 and Over | 60 Inches    |

(ii) The clearance from the bottom of the tractor chassis to the ground does not exceed ((+8)) eighteen inches.

(iii) The highest point of the hood does not exceed ((60)) sixty inches, and

(iv) The tractor is designed so that the operator straddles the transmission when seated.

(k) A "guard" or "shield" is a barrier which insures that no part of an employee may come into contact with a hazard created by a moving machinery part.

(l) "Power take-off shafts" are the shafts and knuckles between the tractor, or other power source, and the first gear set, pulley, sprocket, or other components on power takeoff shaft driven equipment.

(2) Immediate priority shall be given to guarding of power take-off drives on all tractors and equipment. These must be guarded no later than January 1, 1976.

(3) All other power transmission components must be guarded on all equipment manufactured on or after January 1, 1976.

(4) If unguarded power transmission components on older field equipment show evidence that they were once guarded, the guards shall be replaced by January 1, 1976.

(5) The manufacturer's instruction manual, if published by the manufacturer and currently available, shall be the source of information for the safe operation and maintenance of field equipment.

(6) Operating instructions. At the time of initial assignment and at least annually thereafter, the employer shall instruct every employee in the safe operation and servicing of all covered equipment with which he is or will be involved, including at least the following safe operating practices:

(a) Keep all guards in place when the machine is in operation;

(b) Passengers, other than persons required for instruction or machine operation shall not be permitted to ride on equipment unless a passenger seat or other protective device is provided.

(c) Stop engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning, or unclogging the equipment, except where the machine must be running to be properly serviced or maintained, in which case the employer shall instruct employees as to all steps and procedures which are necessary to safely service or maintain the equipment;

(d) Make sure everyone is clear of machinery before starting the engine, engaging power, or operating the machine;

(e) Lock out electrical power before performing maintenance or service on farmstead equipment.

(7) Methods of guarding. Except as otherwise provided in this chapter, each employer shall protect employees from coming into contact with moving machinery parts as follows:

(a) Through the installation and use of a guard or shield or guarding by location;

(b) Whenever a guard or shield or guarding by location is infeasible, by using a guardrail or fence.

(8) Strength and design of guards.

(a) Where guards are used to provide the protection required by this section, they shall be designed and located to prevent inadvertent contact with the hazard being guarded.

(b) Unless otherwise specified, each guard and its supports shall be capable of withstanding the force that a ((250)) two hundred fifty pound individual, leaning on or falling against the guard, would exert upon that guard.

(c) Guards shall be free from burrs, sharp edges, and sharp corners, and shall be securely fastened to the equipment or building.

(9) Guarding by railings. Guardrails or fences shall be capable of preventing employees from inadvertently entering the hazardous area.

(10) Servicing and maintenance.

((+))) Whenever a moving machinery part presents a hazard during servicing or maintenance, the engine shall be stopped, the power source disconnected, and all machine movement stopped before servicing or

maintenance is performed, except where the employer can establish that:

((t))) (a) The equipment must be running to be properly serviced or maintained;

((t))) (b) The equipment cannot be serviced or maintained while a guard or guards are in place; and

((t))) (c) The servicing or maintenance is safely performed.

(11) Shields, guards and access doors that will prevent accidental contact with rotating machine parts on constant-running drives shall be in place when the machine is running. This requirement shall not apply to combines where such guards could create fire hazards.

(12) A guard or shield on stationary equipment shall be provided at the mesh point or pinch point where the chain or belt contacts the sprocket or pulley. Revolving shafts shall be guarded by a standard safeguard unless guarded by location. Shafts that protrude less than one-half the outside diameter of the shaft are exempt from this section.

(13) Projections, such as exposed bolts, keys, or set screws on sprockets, sheaves or pulleys on stationary equipment shall be shielded unless guarded by location.

#### AMENDATORY SECTION (Amending Order 83-19, filed 7/13/83, effective 9/12/83)

WAC 296-306-200 ROLLOVER PROTECTIVE STRUCTURES (ROPS) FOR TRACTORS USED IN AGRICULTURAL OPERATIONS. (1) Scope. Agricultural tractors manufactured after October 25, 1976, shall meet the requirements in this section.

Note: The promulgation of specific standards for rollover protective structures for rubber-tired skid-steer equipment is reserved pending promulgation of specific standards to cover such equipment. ROPS requirements contained in this section do not apply to rubber-tired skid-steer equipment used in agricultural operations.

(2) Rollover protective structure. A rollover protective structure (ROPS) shall be provided by the employer for each tractor operated by an employee. Except as provided in subsection (6) of this section, ROPS used on wheel-type tractors shall meet the test and performance requirements of WAC 296-306-250 through 296-306-25023 and ROPS used on track-type tractors shall meet the test and performance requirements of WAC 296-306-260 through 296-306-270. (See ROPS Design and Testing Criteria Addendum.)

(3) Seatbelts.

(a) Where ROPS are required by this section, the employer shall:

(i) Provide each tractor with a seatbelt which meets the requirements of this subsection;

(ii) Require that each employee uses such seatbelt while the tractor is moving; and

(iii) Require that each employee tightens the seatbelt sufficiently to confine the employee to the protected area provided by the ROPS.

(b) Each seatbelt shall meet the requirements set forth in Society of Automotive Engineers Standard SAE J4C, 1965 Motor Vehicle Seat Belt Assemblies,\* except as noted hereafter:

(i) Where a suspended seat is used, the seatbelt shall be fastened to the movable portion of the seat to accommodate a ride motion of the operator.

(ii) The seatbelt anchorage shall be capable of withstanding tensile loading as required by WAC ((296-306-275 through)) 296-306-275 (1) and (2)((t))).

(iii) The seatbelt webbing material shall have a resistance to acids, alkalis, mildew, aging, moisture and sunlight equal to or better than that of untreated polyester fiber.

(4) Protection from spillage. Batteries, fuel tanks, oil reservoirs and coolant systems shall be constructed and located or sealed to assure that spillage will not occur which may come in contact with the operator in the event of an upset.

(5) Protection from sharp surfaces. All sharp edges and corners at the operator's station shall be designed to minimize operator injury in the event of an upset.

(6) Exempted uses. ((Items)) Subsections (2) and (3) of this section do not apply to the following uses:

(a) "Low profile" tractors while they are used in orchards, vineyards or hop yards where the vertical clearance requirements would substantially interfere with normal operations, and while their use is incidental to the work performed therein.

(b) "Low profile" tractors while used inside a farm building or greenhouse in which the vertical clearance is insufficient to allow a

ROPS equipped tractor to operate, and while their use is incidental to the work performed therein.

(c) Tractors while used with mounted equipment which is incompatible with ROPS (e.g., cornpickers, cotton strippers, vegetable pickers and fruit harvesters.)

(d) Track-type agricultural tractors whose overall width (as measured between the outside edges of the tracks) is at least three times the height of their rated center of gravity, and whose rated maximum speed in either forward or reverse is not greater than ((7=)) seven miles per hour, when used only for tillage or harvesting operations and while their use is incidental thereto, and which:

(i) Does not involve operating on slopes in excess of ((40)) forty percent from horizontal; and

(ii) Does not involve operating on piled crop products or residue, as for example, silage in stacks or pits, and

(iii) Does not involve operating in close proximity to irrigation ditches, streams or other excavations more than two feet deep which contain slopes of more than ((40)) forty percent from horizontal; and

(iv) Does not involve construction-type operation, such as bulldozing, grading or land clearing.

(7) Remounting. Where ROPS are removed for any reason, they shall be remounted so as to meet the requirements of this subsection.

(8) Labeling. Each ROPS shall have a label, permanently affixed to the structure, which states:

(a) Manufacturer's or fabricator's name and address;

(b) ROPS model number, if any;

(c) Tractor makes, models, or series numbers that the structure is designed to fit; and

(d) That the ROPS model was tested in accordance with the requirements of this section.

(9) Operating instructions. Every employee who operates an agricultural tractor shall be informed of the operating practices contained in Exhibit A of this section and of any other practices dictated by the work environment. Such information shall be provided at the time of initial assignment and at least annually thereafter.

\*Copies may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096.

#### EXHIBIT A

##### EMPLOYEE OPERATING INSTRUCTIONS

- Securely fasten your seat belt if the tractor has a ROPS.
- Where possible, avoid operating the tractor near ditches, embankments and holes.
- Reduce speed when turning, crossing slopes and on rough, slick or muddy surfaces.
- Stay off slopes too steep for safe operation.
- Watch where you are going, especially at row ends, on roads and around trees.
- Passengers, other than persons required for instruction or machine operation, shall not be permitted to ride on equipment unless a passenger seat or other protective device is provided.
- Operate the tractor smoothly—no jerky turns, starts, or stops.
- Hitch only to the drawbar and hitch points recommended by tractor manufacturers.
- When tractor is stopped, set brakes securely and use park lock if available.

Note: See Number LI-414-28.

#### AMENDATORY SECTION (Amending Order 86-46, filed 4/22/87)

WAC 296-306-310 FIELD SANITATION—DEFINITIONS.

(1) "Agricultural employer" means any person, corporation, association, or other legal entity that owns or operates an agricultural establishment or on whose premises or in whose interest an agricultural establishment is operated and any person, corporation, association, or other legal entity who is responsible for the management and condition of an agricultural establishment or who acts directly or indirectly in the interest of an employer in relation to any employee.

(2) "Agricultural establishment" is a business operation that uses paid employees in the production of food, fiber, or other materials such as seedlings, plants, or parts of plants.

(3) "Accessible" means no more than one-fourth mile or five minutes travel time from the work location served.

(4) "Hand-labor operations" means agricultural activities or operations performed by hand or with hand tools. Some examples of "hand-

"labor operations" are the hand ((harvest)) cultivation, weeding, planting or harvesting of vegetables, nuts, fruit, ((hand weeding of crops, and hand planting of)) seedlings or other crops, including mushrooms, and the hand packing into containers. "Hand-labor" does not include such activities as logging operations, the care or feeding of livestock, or hand-labor operations in permanent structures (e.g., cannery facilities or packing houses).

(5) "Handwashing facility" means a facility providing a tap with an adequate supply of water, approved by the local health authority. Soap, single-use hand towels and either a basin or other suitable container for washing shall be provided.

(6) "Potable water" means water that meets the standards for drinking purposes by the state or local authority having jurisdiction or water that meets the quality standards prescribed by the local health authority in accordance with the United States Environmental Protection Agency's National Interim Primary Drinking Water Regulations, published in 40 CFR Part 141.

(7) "Toilet" means a fixed or portable facility designed for the purpose of adequate collection and containment of both defecation and urination((, including)). "Toilet" includes biological ((or)), chemical ((toilets)), flush and combustion toilets, or sanitary privies. ((Toilets may be either fixed or portable.))

#### AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

**WAC 296-306-320 FIELD SANITATION—REQUIREMENTS.** Agricultural employers shall provide the following for employees engaged in hand-labor operations in the field, without cost to the employee:

(1) Orientation: Orientation shall be given verbally to all employees in a manner readily understandable by each employee and shall include:

(a) Potable water: The location(s) of potable water supplies;

(b) Nonpotable water: Identification of all nonpotable water at the worksite and prohibition of the use of nonpotable water with an explanation of the possible consequences of using nonpotable water;

(c) Handwashing facilities: The location(s) of handwashing facilities with an explanation of when and how they should be used and the consequences of nonuse; and

(d) Toilet facilities: The location(s) of toilet facilities with an explanation of the necessity to use them and to keep them sanitary as well as the possible consequences of nonuse.

(2) Potable drinking water.

(a) The water shall be provided and shall be placed in locations readily accessible to all employees.

(b) Potable water dispensers shall be designed, constructed, and serviced so that sanitary conditions are maintained. They shall be capable of being closed and shall be equipped with a tap.

(c) Open containers such as barrels, pails, or tanks for drinking water from which water must be dipped or poured, whether or not they are fitted with a cover, are prohibited.

(d) Marking: Any container used to distribute drinking water shall be clearly marked, in English and with appropriate international symbol as to the nature of its contents.

(e) Use: Any container used to distribute drinking water shall not be used for any other purpose.

(f) The water shall be suitably cool and in sufficient amounts, taking into account the air temperature, humidity, and the nature of the work performed, to meet employees' needs.

Note: Suitably cool water should be sixty degrees Fahrenheit or less. During hot weather, workers may require up to three gallons of water per day.

(g) The use of common drinking cups or dippers is prohibited. Water shall be dispensed in single-use drinking cups, personal containers, or by water fountains. Single-use drinking cups mean a container of any type or size whether disposable or not, and may include personal containers so long as the option to use a personal container is exercised by the employee, not the employer.

(h) Employees shall not be permitted to drink from irrigation ditches, creeks or rivers. Potable water shall meet the standards for drinking purposes by the state or local authority having jurisdiction or

water that meets the quality standards prescribed by the local health department in accordance with the United States Environmental Protection Agency's National Interim Primary Drinking Water Regulations, published in 40 CFR Part 141.

(3) Handwashing facilities.

(a) One handwashing facility, providing a tap with an adequate supply of water, soap, single-use hand towels and either a basin or other suitable container for washing shall be provided for each ((thirty)) twenty employees or fraction thereof, except as stated in (h)(ii) of this subsection.

Note: Nonpotable water shall not be used for washing any portion of the person, except as specifically permitted by the health authorities having jurisdiction.

(b) Running water: Each facility shall be provided with running water.

(c) Soap: Each facility shall be provided with a dispenser containing handsoap or a similar cleansing agent.

(d) Towels: Each facility shall be provided with individual single-use hand towels.

(e) Cleanliness: Facilities shall be maintained in a clean and sanitary condition in accordance with appropriate public health sanitation practices.

(f) Waste: Waste receptacles shall be provided. Disposal of wastes from the facilities shall not create a hazard or cause an unsanitary condition.

(g) Reasonable use: Employees shall be allowed reasonable opportunities during the work period to use the facilities.

(h) Location:

(i) Facilities shall be accessibly located in close proximity to toilet facilities and within one-quarter mile of each employee's place of work in the field.

(ii) Where it is not feasible to locate facilities within one-quarter mile, or where facilities are otherwise inaccessible((, suitable immediate transportation shall be provided within five minutes transportation time, to facilities meeting the requirements of this subsection. Under exceptional and compelling circumstances, such as adverse weather, temperatures below freezing, or isolated terrain, longer transportation times may be used)) due to terrain, they shall be located at the point of closest vehicular access.

(4) Toilet facilities.

(a) One toilet facility shall be provided for each ((thirty)) twenty employees or fraction thereof, except as stated in (h)(ii) of this subsection.

(b) Each employer shall ensure, at the beginning of each day, that the toilets are inspected. If any toilet facility fails to meet the requirements of this section, immediate corrective action shall be taken. Inspections shall be documented and the record shall be maintained at the work site for at least seventy-two hours.

(c) Toilet facilities shall be adequately ventilated; appropriately screened, and have self-closing doors that can be closed and latched from the inside and shall be constructed to ensure privacy.

(d) Cleanliness: Facilities shall be maintained in a clean, sanitary, and functional condition and in accordance with the appropriate public health sanitation practices.

(e) Toilets shall be supplied with toilet paper.

(f) Waste: Disposal of wastes from the facilities shall not create a hazard or cause an unsanitary condition.

(g) Reasonable use: Employees shall be allowed reasonable opportunities during the work period to use the facilities.

(h) Location:

(i) Facilities shall be accessibly located in close proximity to hand washing facilities and within one-quarter mile of each employee's place of work in the field.

(ii) Where it is not feasible to locate facilities within one-quarter mile, or where facilities are otherwise inaccessible((, suitable immediate transportation shall be provided within five minutes transportation time, to facilities meeting the requirements of this subsection. Under exceptional and compelling circumstances, such as adverse weather, temperature below freezing, or isolated terrain, longer transportation times may be used)) due to terrain, they shall be located at the point of closest vehicular access.

**WSR 89-06-059**  
**PROPOSED RULES**

**DEPARTMENT OF GENERAL ADMINISTRATION**  
**(Division of Banking)**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of General Administration, Division of Banking, intends to adopt, amend, or repeal rules concerning Semiannual asset charge—Assessment, amending WAC 50-44-020.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 4, 1989.

The authority under which these rules are proposed is RCW 30.04.030 and 31.04.150.

The specific statute these rules are intended to implement is RCW 30.04.070 and 31.04.160.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1989.

Dated: March 1, 1989  
By: Thomas H. Oldfield  
Supervisor of Banking

**STATEMENT OF PURPOSE**

Title: Semiannual asset charge—Assessment.

Description of Purpose: Proposed amendment to WAC 50-44-020.

Statutory Authority: RCW 30.04.030 and 31.04.150.

Specific Statute Rule is Intended to Implement: RCW 30.04.070 and 31.04.160.

Summary of Rule: The supervisor of banking proposes to amend WAC 50-44-020 to collect the semiannual assessment 30 days earlier than currently collected under the existing rule, and require the financial institutions to calculate the asset charge due for each assessment period.

Reasons Supporting Proposed Action: Defers need to adjust assessments and increases administrative efficiency.

Defers Need to Adjust Assessments: The Division of Banking (the "division") has made a number of changes to improve the productivity and efficiency of personnel and procedures. These efforts are continuing and the results are encouraging. The full extent of increased productivity and reduced expenditures resulting from the changes cannot be accurately measured yet. Deferral of any adjustment in the assessment will provide an opportunity to implement additional changes, and for more accurate measurement and evaluation. This will also allow additional time to obtain input from the industry and from other interested parties with regard to any proposed adjustments. Based on current collection dates and projected revenue and expenditures, the fund balance would drop to an amount equal to only 1.5 months of operating expenses by July 1989. A fund balance at that level could impair the division's ability to adequately respond to unforeseen events in the financial services industry. Collecting the semiannual assessment 30 days earlier increases the minimum fund balance by approximately \$120,000, and provides a minimum fund balance

of approximately 2.5 months of operating expenditures. This defers the need for an assessment adjustment.

Increases Administrative Efficiency: Currently, one of the division's staff calculates the assessments and sends a statement to each financial institution for the amount due. By having each bank compute and submit its own assessment, the division will save substantial staff time, as well as postage and other expenses.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Thomas H. Oldfield, Supervisor of Banking; or John L. Bley, Deputy Supervisor of Banking.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Division of Banking, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: The Division of Banking recommends that this amendment be adopted to defer the need for an increase in assessments.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: N/A.

**AMENDATORY SECTION** (Amending Order 55, filed 10/3/83)

WAC 50-44-020 SEMIANNUAL ASSET CHARGE—ASSESSMENT. A semiannual charge for assets will be computed upon the asset value reflected in the most recent report of condition. The rate of such charge shall be as set forth in the following schedules:

(1) Commercial banks.

If the bank's total assets are:

The assessment is:

| Over    | But not Over | This Amount | Plus     | Of Excess Over |
|---------|--------------|-------------|----------|----------------|
| Million | Million      |             |          | Million        |
| 0       | 1            | \$ 500      | .0000850 | 0              |
| 1       | 10           | 1,000       | .0000850 | 1              |
| 10      | 100          | 1,000       | .0000800 | 1              |
| 100     | 300          | 1,000       | .0000600 | 1              |
| 300     | 500          | 1,000       | .0000575 | 1              |
| 500     | 700          | 1,000       | .0000538 | 1              |
| 700     | 900          | 1,000       | .0000525 | 1              |
| 900     | 1,000        | 1,000       | .0000500 | 1              |
| 1,000   | —            | 1,000       | .0000450 | 1              |

(2) Alien banks.

If the bank's total assets are:

The assessment is:

| Over    | But not Over | This Amount | Plus     | Of Excess Over |
|---------|--------------|-------------|----------|----------------|
| Million | Million      |             |          | Million        |
| 0       | 200          | \$1,000     | .0000625 | 1              |
| 200     | 300          | 1,000       | .0000600 | 1              |
| 300     | 500          | 1,000       | .0000575 | 1              |
| 500     | 700          | 1,000       | .0000550 | 1              |
| 700     | 1,000        | 1,000       | .0000500 | 1              |
| 1,000   | —            | 1,000       | .0000450 | 1              |

(3) Mutual savings banks and stock savings banks.

If the bank's total assets are:

The assessment is:

| Over    | But not Over | This Amount | Plus      | Of Excess Over |
|---------|--------------|-------------|-----------|----------------|
| Million | Million      |             |           | Million        |
| 0       | 100          | \$3,000     |           |                |
| 100     | 200          | 1,000       | .0000225  | 1              |
| 200     | 500          | 1,000       | .0000200  | 1              |
| 500     | 1,000        | 1,000       | .0000175  | 1              |
| 1,000   | 3,000        | 1,000       | .00001625 | 1              |
| 3,000   | —            | 1,000       | .0000150  | 1              |

(4) Industrial loan companies.  
If the total assets on a consolidated basis are:

| Over    | But not Over | This Amount | Plus    | Of Excess Over |
|---------|--------------|-------------|---------|----------------|
| Million | Million      |             |         | Million        |
| 0       | 1            | \$ 250      | .000075 | 1              |
| 1       | —            | 250         |         |                |

The supervisor's office shall forward by ((first-class)) United States mail a notice to each ((respective)) financial institution showing the ((total amount of)) manner of calculating the asset charge due and a worksheet for such purposes. The notices shall be mailed ((during the months of February and August, commencing in February 1982)) with the blank June and December report of condition commencing with the December 1988 report of condition applicable to commercial, savings and alien banks and the consolidated annual report and a semiannual notice of assessment applicable to industrial loan companies. The asset charge ((must be received by)) shall be calculated by the financial institution and forwarded to the office of the supervisor of banking ((within thirty days from the time the supervisor's notice is mailed)) with the applicable report. A completed copy of the worksheet shall be included with the assessment. An additional two hundred dollar penalty shall be assessed if the amount is not paid within the time specified.

**WSR 89-06-060  
EMERGENCY RULES  
DEPARTMENT OF ECOLOGY**  
[Order 89-10—Filed March 1, 1989]

I, Terry Husseman, assistant director of Waste Management, do promulgate and adopt at Lacey, Washington, the annexed rules relating to local solid waste enforcement grant regulation, adopting chapter 173-313 WAC.

I, Terry Husseman, assistant director of Waste Management, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is on November 8, 1988, the voters of the state of Washington approved Initiative 97, also known as the Model Toxics Control Act. The Model Toxics Control Act supersedes and repeals chapter 70.105B RCW. The Department of Ecology adopted rules, chapter 173-312 WAC, to implement the solid waste enforcement financial assistance portion of chapter 70.105B RCW. These rules no longer have statutory authority. This emergency rule (chapter 173-313 WAC) is necessary so that ecology can continue to provide solid waste enforcement financial assistance to local governments under the authority of the Model Toxics Control Act. Many local governments have pending grant applications with ecology. Failure to process these applications and to subsequently award grants would result in a critical environmental program not being funded. This program is designed to provide financial assistance for inspection of solid waste facilities to protect the public health and environment.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 70.95.220 and the Model Toxics Control Act (section 7) and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 1, 1989.

By Terry Husseman  
Assistant Director  
Waste Management

**Chapter 173-313 WAC  
LOCAL SOLID WASTE ENFORCEMENT GRANT REGULATION**

**WAC**

- 173-313-010 *Introduction.*
- 173-313-020 *Purpose and authority.*
- 173-313-030 *Applicant eligibility.*
- 173-313-040 *Application.*
- 173-313-050 *Criteria for allocation of funds.*

**NEW SECTION**

**WAC 173-313-010 INTRODUCTION.** RCW 70-95.220 provides that any jurisdictional health department may apply to the department of ecology for financial aid for the enforcement of rules and regulations promulgated under chapter 70.95 RCW. RCW 70.95-220 further provides that after receipt of such applications, the department may allocate available funds according to criteria established by regulation. Such criteria shall consider or be based upon population, urban development, the number of disposal sites, and geographical area.

**NEW SECTION**

**WAC 173-313-020 PURPOSE AND AUTHORITY.** The purpose of this regulation is to establish criteria by which the department of ecology shall allocate financial aid, pursuant to the Model Toxics Control Act, to jurisdictional health departments for enforcement of rules and regulations promulgated under chapter 70.95 RCW.

**NEW SECTION**

**WAC 173-313-030 APPLICANT ELIGIBILITY.** In order to be eligible for grant funding, the local health department must:

- (1) Be a "jurisdictional health department" as defined by RCW 70.95.030;
- (2) Have a program to achieve the goals of chapter 70.95 RCW;
- (3) Have a solid waste ordinance per chapter 70.95 RCW, or be in the process of adoption.

**NEW SECTION**

**WAC 173-313-040 APPLICATION.** Application for funds shall be made on forms provided by the department and shall include detailed information specified

*in a guidance document also provided by the department. This detailed information shall include a confirmation of the applicant's eligibility, and a description of the program and budget.*

#### NEW SECTION

**WAC 173-313-050 CRITERIA FOR ALLOCATION OF FUNDS.** As specified in RCW 70.95.220, first priority will be to provide funds exclusively for solid waste inspection activities, including staff for administration of the local inspection program. The following criteria will be used to assist in the allocation of those funds:

- (1) Protection of public health and environment.
- (2) Cost to residential ratepayers without state assistance.
- (3) Actions required under federal, state and local regulations, and consent decrees.
- (4) Commitment/readiness to proceed.
- (5) Degree of local solid waste problems, as measured by these factors:
  - (a) Number of existing disposal sites, open and closed;
  - (b) Environmental sensitivity of the geographical area;
  - (c) Disposal sites and other waste management facilities, open and closed;
  - (d) Current enforcement actions;
  - (e) Extent of urban development and its relationship to industrial, commercial, and residential development; and
  - (f) Population.

**WSR 89-06-061  
EMERGENCY RULES  
DEPARTMENT OF ECOLOGY**  
[Order 89-9—Filed March 1, 1989]

I, Terry Husseman, assistant director of Waste Management, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Model Toxics Control Act, adopting chapter 173-315 WAC, Local toxics control account—Interim financial assistance program.

I, Terry Husseman, assistant director of Waste Management, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is on November 8, 1988, the voters of the state of Washington approved Initiative 97, also known as the Model Toxics Control Act. The Model Toxics Control Act supersedes and repeals chapter 70.105B RCW. The Department of Ecology adopted rules, chapter 173-309 WAC, to implement the financial assistance portion of chapter 70.105B RCW. These rules no longer have statutory authority. This emergency rule (chapter 173-315 WAC) is necessary so that ecology can continue to provide financial assistance to local governments under the

authority of the Model Toxics Control Act. Many local governments have pending grant applications with ecology. Failure to process these applications and to subsequently award grants would result in critical environmental projects not being funded. Some of the projects include conducting groundwater monitoring and taking remedial actions at landfills in order to identify and mitigate potential or actual threats to the public health and the environment.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to the Model Toxics Control Act (section 7) and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 1, 1989.

By Terry Husseman  
Assistant Director  
Waste Management

**Chapter 173-315 WAC  
MODEL TOXICS CONTROL ACT—LOCAL  
TOXICS CONTROL ACCOUNT—INTERIM FI-  
NANCIAL ASSISTANCE PROGRAM**

**WAC**

|             |  |
|-------------|--|
| 173-315-010 | <i>Purpose and authority.</i>                                  |
| 173-315-020 | <i>Definitions.</i>  |
| 173-315-030 | <i>Relation to other legislation and administrative rules.</i> |
| 173-315-040 | <i>General.</i>  |
| 173-315-050 | <i>Remedial action grants.</i>                                 |
| 173-315-060 | <i>Hazardous waste planning and program grants.</i>            |
| 173-315-070 | <i>Solid waste planning and program grants.</i>                |
| 173-315-080 | <i>Waste reduction and recycling grants.</i>                   |
| 173-315-090 | <i>Groundwater monitoring grants.</i>                          |

#### NEW SECTION

**WAC 173-315-010 PURPOSE AND AUTHORITY.** The purpose of this chapter is to set forth eligibility criteria and requirements for the conduct of an interim financial assistance program to provide grants to local government pursuant to the Model Toxics Control Act. The department shall provide grants to local government for:

- (1) Remedial actions;
- (2) Hazardous waste plans and programs under chapter 70.105 RCW;
- (3) Solid waste plans and programs under RCW 70.95.130 and 70.95.220;
- (4) Waste reduction and recycling activities and facilities; and
- (5) Groundwater monitoring.

This chapter recognizes the burden placed upon ratepayers due to the high costs of cleanups, and solid and hazardous waste management, and consistent with the

*Model Toxics Control Act, provides financial assistance to mitigate such hardships.*

*This chapter recognizes the importance of a strong preventive program to alleviate future contamination through proper solid and hazardous waste planning and management. It is designed to provide assistance to local governments in carrying out these vital functions pursuant to the requirements of chapters 70.95 and 70.105 RCW, and the Model Toxics Control Act.*

*The interim financial assistance program will provide financial assistance to local governments in the form of grants.*

*The authority to provide financial assistance to local government is granted under the Model Toxics Control Act.*

#### NEW SECTION

**WAC 173-315-020 DEFINITIONS.** (1) "Collection days" means events such as, but not limited to, one-day projects in which moderate risk wastes are collected at centralized location(s) for subsequent packaging and transport to a permitted treatment storage or disposal facility.

(2) "Department" means the Washington state department of ecology.

(3) "Existing facility" means an owned or leased landfill in operation, or for which construction has begun, on or before the effective date of chapter 173-304 WAC for which the owner or operator has obtained permits or approvals necessary under federal, state and local statutes, regulations and ordinances. A facility has commenced construction if either:

(a) A continuous on-site physical construction program has begun; or

(b) The owner or operator has entered into contractual obligations which cannot be cancelled or modified without substantial financial loss. Physical construction of the facility is to be completed within a reasonable time.

Lateral extensions of a landfill's active area on land purchased and permitted by the jurisdictional health department for the purpose of landfilling before the effective date of chapter 173-304 WAC shall be considered existing facilities.

(4) "Hazard ranking system" means the system for ranking and prioritizing hazardous waste sites to be adopted by the department pursuant to the Model Toxics Control Act.

(5) "Household wastes" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas).

(6) "Local governments" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

(7) "Minimum functional standards" means the requirements of chapter 173-304 WAC, Minimum functional standards for solid waste handling.

(8) "Moderate-risk waste" means:

(a) Any waste that exhibits any of the properties of hazardous waste but is exempt from regulation under this chapter solely because the waste is generated in quantities below the threshold for regulation; and

(b) Any household wastes which are generated from the disposal of substances identified by the department as hazardous household substances.

(9) "Pilot project" means a moderate-risk hazardous waste management feasibility study developed to provide detailed information for alternative moderate-risk waste management techniques or options.

(10) "Remedial action" means any action or expenditure, to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment, including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance as well as any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

(11) "Settlement agreement" means any consent decree entered into pursuant to RCW 70.105B.080, the Model Toxics Control Act, or any consent order or decree with the department in effect October 16, 1987.

(12) "Solid waste disposal or management facility" means (for the purpose of this chapter only) any facility or system owned or operated by local governments for the purpose of controlling, collecting, storing, disposing, recycling, or recovery of solid wastes, including any equipment, structures, or property incidental to such purposes. This term shall not include the acquisition of equipment to collect residential or commercial garbage.

#### NEW SECTION

**WAC 173-315-030 RELATION TO OTHER LEGISLATION AND ADMINISTRATIVE RULES.**

(1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous and solid waste management and disposal.

(2) The remedial action grants shall be used to supplement local government funding to carry out required remedial actions.

(3) Hazardous waste planning and program grants shall be awarded to local government to implement RCW 70.105.220, 70.105.235 (1)(a) and (b), 70.105.235(3), and the Model Toxics Control Act. Each local government must complete and submit a hazardous waste plan to the department for approval or disapproval by June 30, 1990, pursuant to RCW 70.105.220(7). Revisions of existing plans must meet local hazardous waste planning guidelines.

(4) Solid waste planning and program grants shall be awarded to implement RCW 70.95.010, 70.95.080, 70.95.090, 70.95.130, 70.95.140, 70.95.150, the Model Toxics Control Act, WAC 173-304-130 and 173-304-490. Each solid waste plan must be revised by June 7, 1989, pursuant to RCW 70.95.110 as outlined in the department's Solid Waste Planning Guidelines, May 1986 and subsequent addenda.

(5) Waste reduction and recycling grants shall be awarded to only those projects fulfilling chapter 173-304 WAC and the state "Grant Guidelines for Solid Waste Disposal and Management" or any revisions thereto.

(6) Groundwater monitoring grants shall be awarded to implement WAC 173-304-490. Groundwater monitoring grants are to meet state "Grant Guidelines for Solid Waste Disposal and Management," or any revisions thereto.

(7) All grants shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grant funds.

#### NEW SECTION

WAC 173-315-040 GENERAL. (1) Apportionment of funds.

For purposes of implementing the interim financial assistance program, the local toxics account shall be apportioned between the following categories as follows:

- (a) Remedial actions.
- (b) Hazardous waste plans and programs.
- (c) Solid waste plans and programs.
- (d) Waste reduction and recycling facility grants.
- (e) Groundwater monitoring grants.

(2) Adjustment of funds. Based on a periodic internal review of grant applications received, grant obligations, grant fund balances, and revenue projections, the department may allocate funds by grant category or readjust the amount of funds that may be allocated under any and all grant categories.

(3) Grant application process. Grant application deadlines and schedules will be announced for each of the funding priority grant programs.

Grant application packages which include grant application deadlines, guidelines, application forms, and detailed information will be provided to all interested parties.

When applications are received by the department, they will be reviewed and scored by a committee consisting of department personnel. Applications need to include all required elements, as outlined in the guidelines, in order to be competitive.

After an application is scored and an award letter is sent out, the department will contact the applicant to negotiate the final details of the scope of work, budget, and any other items of concern.

A grant offer is made by the department to the applicant in the form of a grant contract when all applicant and project eligibility requirements have been met, funds are available, and the formal application has been completed to the mutual satisfaction of the applicant and the department.

A grant award is made when a grant agreement has been signed by both the applicant and the department. The grant agreement becomes effective on the date the program manager of the solid and hazardous waste program of the department signs the contract. This also establishes the beginning date of the project. No costs incurred prior to that date are grant eligible unless specific provision is made in the grant agreement for such costs.

(4) Appropriation and allotment of funds. The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the allotment of funds during the next biennium.

(5) Administrative practices. All grants under this chapter shall be consistent with the provisions of Financial Guidelines for Grants Management, WDOE 80-6, May 1980, reprinted March 1982, or subsequent guidelines adopted thereafter.

(6) The department encourages cooperation and coordination among units of local government and any funds granted under this chapter may be used by any unit of local government through interagency agreements.

(7) The department may issue grants to local governments that applied for funding assistance authorized by chapter 70.105B RCW and chapter 173-309 WAC.

#### NEW SECTION

WAC 173-315-050 REMEDIAL ACTION GRANTS. (1) Applicant eligibility. An applicant for a remedial action grant must be a local government which will use the grant for the purpose of planning and/or carrying out required remedial action at a public or private landfill site used primarily for the disposal of municipal solid waste.

An applicant must also meet one of the following requirements:

(a) Be a party to a consent decree under chapter 70-105B RCW, the Model Toxics Control Act, or a consent order under chapter 90.48 RCW requiring remedial action at a landfill site; or

(b) Have been issued an enforcement order under RCW 90.48.120, the Model Toxics Control Act, or RCW 70.105B.120 (1)(c)(ii) or (2), requiring remedial action at a landfill site; or

(c) Have solid waste jurisdiction over a private landfill site for which a potentially liable party has obtained a consent order or has been issued an enforcement order under chapter 90.48 RCW requiring a remedial investigation and feasibility study of the site, provided that the consent order or enforcement order predates September 4, 1988.

Sites meeting eligibility requirements shall be deemed, for the purposes of this chapter, to be on the hazard ranking list pending issuance of such a list.

(2) Eligible project costs.

(a) Remedial action grants are for the purpose of assisting local governments to plan and carry out required remedial action at public or private facilities used primarily for the disposal of municipal solid waste.

(b) Costs are grant eligible if their purpose is to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment. This includes any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance as well as any health assessments or health effect studies conducted

in order to determine the risk or potential risk to human health. Costs eligible for grant funding include:

- (i) Remedial investigations to define the extent and source of contamination;
- (ii) Feasibility studies to develop and evaluate cleanup options;
- (iii) Remedial design, including final engineering and preparation of plans and specifications needed to implement remedial action;
- (iv) Monitoring;
- (v) Methane control;
- (vi) Excavating the site to remove or relocate contaminated materials, or removing and cleaning up drums, debris, and other contaminated materials;
- (vii) Run-on/run-off water control systems;
- (viii) Final cover;
- (ix) Ground water treatment and control;
- (x) In situ treatment technology;
- (xi) Acquisitions of off-site property or property easements only for the purpose of gaining access to a facility requiring remedial action, or for the purpose of installing monitoring wells or other pollution abatement equipment or for other purposes relating to remedial action;
- (xii) Fencing where waste disposal has terminated or to limit access to structures built to implement a remedial action;
- (xiii) Other remedial action activities as determined by the department on a case-by-case basis.

(3) Retroactive funding. Retroactive funding will be allowed for all eligible work conducted under a signed settlement agreement. Retroactive funding may be allowed for costs incurred since October 16, 1987.

(4) Matching requirements. Up to fifty percent state funding will be available for eligible project costs as defined in subsection (2)(a)(i), (ii), (iii), and (iv) of this section; remedial investigations, feasibility studies, remedial design, and monitoring. Up to twenty-five percent state funding will be available for all other eligible project costs.

## NEW SECTION

### **WAC 173-315-060 HAZARDOUS WASTE PLANNING AND PROGRAM GRANTS. (1) Applicant eligibility.**

(a) Hazardous waste planning grants. Eligible local governments under this section are cities, towns, or counties pursuant to RCW 70.105.010(16).

(b) Pilot projects. The applicant must be a local government.

(c) Collection days. The applicant must be a local government.

#### **(2) Eligible project costs.**

##### **(a)(i) Hazardous waste planning grants.**

Eligible costs include direct costs for activities and tasks necessary for developing or updating local hazardous waste management plans, if they are consistent with the department's Planning Guidelines for Local Hazardous Waste Plans, July 1987, WDOE 87-18.

In-depth planning studies to provide detailed analysis of specific plan elements may be undertaken as a part of an overall planning grant, or separately if it can be

demonstrated that the planning requirements are otherwise being met.

(ii) Retroactive funding. Funding retroactive to October 16, 1987, will be allowed for costs incurred which are directly related to the preparation of local hazardous waste plans and are in conformance with Planning Guidelines for Local Hazardous Waste Plans, July 1987, WDOE 87-18 and subsequent addenda.

(b) Collection days. Eligible costs include direct costs for all activities and tasks required to plan and carry out hazardous waste collection days for household and/or small quantity generator hazardous waste.

(c) Pilot projects. Eligible costs include direct costs for all activities and tasks for projects that examine the technical, economic, and/or social feasibility of alternative moderate-risk waste reduction, recycling, or handling methods.

#### **(3) Matching requirements.**

(a) Planning grants. Grants will be made for up to seventy-five percent of the total eligible project cost, however, based on prior department approval, direct local costs of hazardous household substance pilot or collection projects conducted between June 30, 1985, and June 30, 1988, may be subtracted from the twenty-five percent local share of total project costs, therefore the department may make grants up to one hundred percent of the total project cost in these cases.

(b) Collection days. Grants will be made for up to fifty percent of the total eligible project cost, or fifteen thousand dollars per grant or local government, whichever is the lesser amount.

(c) Pilot projects. Grants will be made for up to fifty percent of the total eligible project cost, or fifty thousand dollars per project, whichever is the lesser amount.

#### **(4) Priority for allocation of grant funds.**

(a) Planning grants. It is the department's intent that grants be awarded for all local hazardous waste plan development state-wide. The grants will be awarded on a first-come first-served basis, subject to availability of funds, technical adequacy, and application completeness.

(b) Collection days. The grants will be awarded on a first-come first-served basis, subject to availability of funds, technical adequacy, and application completeness.

(c) Pilot projects. Grant applications will be ranked according to the following criteria:

(i) Adequacy of and integration with local hazardous waste plans. The local government must be in the process of developing or have completed a local hazardous waste plan. The pilot project must be identified as a part of the local hazardous waste plan.

(ii) Promotion of hazardous waste priorities. A pilot project must address one or more of the following: Hazardous waste reduction, recycling, or the methods of handling.

(iii) Environmental and public health protection. Special consideration will be given to local governments which have a special need to protect a sensitive resource or existing public health problem.

(iv) Generation of information. The project must result in information useful to the solution of moderate-risk use waste problems.

**NEW SECTION**

**WAC 173-315-070 SOLID WASTE PLANNING AND PROGRAM GRANTS.** (1) Applicant eligibility. Eligible local governments under this section are counties and cities pursuant to RCW 70.95.130.

(2) **Eligible project costs.**

(a) **General.** Costs for developing or updating local solid waste management plans are grant eligible if:

- (i) They are necessary to conduct the project;
- (ii) They are consistent with department's solid waste-planning guidelines and subsequent addenda.

(b) **Retroactive.** Funding retroactive to October 16, 1987, will be allowed for costs incurred which are directly related to the preparation of local solid waste plans and are in conformance with the state Solid Waste Planning Guidelines, May 1986, WDOE 86-4 and subsequent addenda.

(3) **Matching requirements.** Grants will be made for up to fifty percent of the total eligible project cost.

(4) **Allocation of grant funds.** It is the department's intent that grants be awarded for developing or updating local solid waste management plans state-wide. Subject to the limits of available funds, those applications that meet eligibility requirements will be approved for funding on a first-come first-served basis.

**NEW SECTION**

**WAC 173-315-080 WASTE REDUCTION AND RECYCLING GRANTS.** (1) **Applicant eligibility.** The applicant must be a local government. Recycling facilities are eligible provided that:

(a) It is demonstrated that the proposed waste reduction and recycling activity, facility, or service is not reasonably available to persons within the locale from private enterprise; and

(b) It is demonstrated that the project is economically feasible and suitable for successful implementation.

(2) **Eligible project costs.**

(a) **General.** Costs are grant eligible if:

- (i) They are necessary to conduct the project;
- (ii) They are consistent with the department's Grant Guidelines for Solid Waste Disposal and Management, May 1988.

(b) **Recycling facility.** Eligible costs include direct costs for yard and garden waste composting facilities, and other waste reduction and recycling activities and facilities. These costs include:

- (i) Planning and feasibility studies, environmental impact statements, and permitting costs;
- (ii) Preparation of design documents;
- (iii) Facility construction;
- (iv) Purchase of specialized equipment.

(3) **Matching requirements.** Grants will be made for up to seventy-five percent of the total eligible project cost.

(4) **Priority for allocation of grants.** Grant applications will be ranked according to how each application meets the criteria set forth below. Grants will be awarded, within the limits of available funds, to the highest ranking applications that otherwise meet provisions for

completeness and technical adequacy. The project ranking criteria are as follows:

(a) Extent to which the waste stream will be reduced. Priority will be given to those projects emphasizing reduction and recycling of larger components of the waste stream, such as yard and garden waste and mixed scrap paper.

(b) How the project integrates into the current and planned solid waste management system.

(c) How the project will contribute to the solution of an existing solid waste problem.

(d) The probable technical success of the project.

(e) Demonstration that the project scope is compatible with the cost and needs of the project.

(f) Other special situations that exist in the project.

(g) How the project will be operated and maintained.

**NEW SECTION**

**WAC 173-315-090 GROUNDWATER MONITORING GRANTS.** (1) **Applicant eligibility.** The applicant must be a local government. The groundwater monitoring project must be addressed with a facility maintenance and operation plan, as required by chapter 173-304 WAC.

(2) **Eligible project costs.**

(a) **General.** Costs are grant eligible if:

- (i) They are necessary to conduct the project;
- (ii) They are consistent with department's Grant Guidelines for Solid Waste Disposal and Management, May 1988.

(b) **Groundwater monitoring.** Eligible costs include direct costs incurred by grantees that are owners and operators of landfills, piles, landspreading disposal facilities, and surface impoundments that are required to perform groundwater monitoring pursuant to WAC 173-304-400. Direct costs involved in design and installation of groundwater monitoring wells at existing facilities as defined by WAC 173-304-100 (27)(a) and (b), will be eligible for funding.

(3) **Matching requirements.** Grants will be made for up to fifty percent of the total eligible project costs, not to exceed a maximum of fifty thousand dollars per local government.

(4) **Priority for allocation of grants.** Grant application will be ranked according to how each application meets the criteria set forth below. Grants will be awarded within the limits of available funds to the highest ranking applications that otherwise meet provisions for completeness and technical adequacy. The ranking criteria are as follows:

(a) Ability to pay. Priority will be given to local governments in economically distressed areas.

(b) How, or if, the project will contribute directly to the solution of an existing environmental or public health problem.

(5) **Retroactive funding.** Will be allowed for all eligible work for costs incurred since October 16, 1987.

**WSR 89-06-062**  
**PROPOSED RULES**  
**BOARD OF TAX APPEALS**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Tax Appeals intends to adopt, amend, or repeal rules concerning practice and procedures before the board, repealing chapter 456-08 WAC;

that the agency will at 10:00 a.m., Friday, April 7, 1989, in the Board of Tax Appeals Office, 910 5th Avenue S.E., Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 82.03.170.

The specific statute these rules are intended to implement is RCW 82.03.140, 82.03.150 and 82.03.160.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1989.

Dated: March 1, 1989  
By: David Akana  
Executive Director

**STATEMENT OF PURPOSE**

**Title:** Chapter 456-08 WAC.

**Description of Purpose:** Repeal of rules describing the organization and rules for conducting hearings.

**Statutory Authority:** RCW 82.03.170.

**Specific Statute Rule is Intended to Implement:** RCW 82.03.140, 82.03.150 and 82.03.160.

**Summary of Rule:** The repealer affects existing rules concerning the administration of the board, and the rules for practice before the board.

**Reasons Supporting Proposed Action:** To update rules of procedure for the board.

**Personnel Responsible for Drafting, Implementation and Enforcement:** David Akana, 910 Fifth Avenue S.E., Olympia, WA 98504-2712, (206) 753-5446.

**Person or Organization Proposing Rule, and Whether Public, Private, or Governmental:** Board of Tax Appeals, state agency.

**Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters:** None.

**Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action:** No.

**Small Business Economic Impact Statement:** No impact is anticipated. The rules are strictly procedural.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

|                |  |
|----------------|--|
| WAC 456-08-001 | PROCEDURE GOVERNED.                        |
| WAC 456-08-002 | ORGANIZATION AND OFFICE.                   |
| WAC 456-08-003 | TIME FROM WHICH APPEAL PERIOD IS COMPUTED. |
| WAC 456-08-004 | NOTICE OF APPEAL.                          |
| WAC 456-08-005 | FILING—DOCKET NUMBERS.                     |
| WAC 456-08-006 | TIME FOR APPEAL.                           |

|                |   |
|----------------|---|
| WAC 456-08-007 | PARTIES IN EXEMPTION APPEALS.   |
| WAC 456-08-010 | APPEARANCE AND PRACTICE BEFORE THE BOARD—WHO MAY APPEAR.                |
| WAC 456-08-040 | STANDARDS OF ETHICAL CONDUCT.   |
| WAC 456-08-045 | EX PARTE COMMUNICATIONS.  |
| WAC 456-08-070 | COMPUTATION OF TIME.  |
| WAC 456-08-080 | RULES RELATING TO HEARINGS—SETTING.                                     |
| WAC 456-08-090 | SERVICE OF PAPERS.  |
| WAC 456-08-092 | SERVICE BY MAIL.  |
| WAC 456-08-150 | SUBPOENAS—FORM.   |
| WAC 456-08-160 | SUBPOENAS—ISSUANCE TO PARTIES.  |
| WAC 456-08-170 | SUBPOENAS—SERVICE.  |
| WAC 456-08-180 | SUBPOENAS—FEES.   |
| WAC 456-08-190 | SUBPOENAS—PROOF OF SERVICE.   |
| WAC 456-08-200 | SUBPOENAS—QUASHING.   |
| WAC 456-08-220 | SUBPOENAS—GEOGRAPHICAL SCOPE.   |
| WAC 456-08-230 | DEPOSITIONS AND INTERROGATORIES—RIGHT TO TAKE—FORMAL PROCEEDING CASES.  |
| WAC 456-08-240 | DEPOSITIONS AND INTERROGATORIES—SCOPE.                                  |
| WAC 456-08-250 | DEPOSITIONS AND INTERROGATORIES—OFFICER BEFORE WHOM TAKEN.              |
| WAC 456-08-260 | DEPOSITIONS AND INTERROGATORIES—AUTHORIZATION.                          |
| WAC 456-08-270 | DEPOSITIONS AND INTERROGATORIES—PROTECTION OF PARTIES AND DEPONENTS.    |
| WAC 456-08-280 | DEPOSITIONS AND INTERROGATORIES—ORAL EXAMINATION AND CROSS-EXAMINATION. |
| WAC 456-08-290 | DEPOSITIONS AND INTERROGATORIES—RECORDATION.                            |
| WAC 456-08-300 | DEPOSITIONS AND INTERROGATORIES—SIGNING, ATTESTATION AND RETURN.        |
| WAC 456-08-310 | DEPOSITIONS AND INTERROGATORIES—USE AND EFFECT.                         |
| WAC 456-08-320 | DEPOSITIONS AND INTERROGATORIES—FEES OF OFFICERS AND DEPONENTS.         |
| WAC 456-08-330 | DEPOSITIONS UPON INTERROGATORIES—SUBMISSION OF INTERROGATORIES.         |
| WAC 456-08-340 | DEPOSITIONS UPON INTERROGATORIES—INTERROGATION.                         |
| WAC 456-08-350 | DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN.                |
| WAC 456-08-360 | DEPOSITIONS UPON INTERROGATORIES—PROVISIONS OF DEPOSITION RULE.         |
| WAC 456-08-365 | DEPOSITIONS UPON INTERROGATORIES—REQUEST FOR ADMISSIONS.                |
| WAC 456-08-370 | OFFICIAL NOTICE—MATTERS OF LAW.   |
| WAC 456-08-380 | OFFICIAL NOTICE—MATERIAL FACTS.   |
| WAC 456-08-400 | AGREED STATEMENT OF FACTS.  |
| WAC 456-08-401 | BRIEFS.   |
| WAC 456-08-405 | SUBMISSION WITHOUT ORAL ARGUMENT.                                       |
| WAC 456-08-408 | TESTIMONY UNDER OATH.   |
| WAC 456-08-420 | JOINDER OF ISSUE.   |
| WAC 456-08-430 | PREHEARING CONFERENCE RULES—AUTHORIZED.                                 |
| WAC 456-08-510 | EXTENSIONS OF TIME—CONTINUANCE.   |
| WAC 456-08-520 | RULES OF EVIDENCE.  |
| WAC 456-08-532 | FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER.                         |
| WAC 456-08-535 | DISMISSAL OF ACTIONS.   |
| WAC 456-08-540 | PETITION FOR REHEARING.   |
| WAC 456-08-600 | INFORMAL HEARINGS—PROCEDURE FOR INFORMAL HEARINGS.                      |
| WAC 456-08-610 | APPEALS FROM DEPARTMENT OF REVENUE.                                     |
| WAC 456-08-620 | APPEALS FROM COUNTY BOARD OF EQUALIZATION.                              |
| WAC 456-08-630 | SETTING FOR HEARING.  |
| WAC 456-08-635 | HEARING EXAMINER FOR INFORMAL HEARING.                                  |
| WAC 456-08-640 | VOLUNTARY DISMISSAL.  |
| WAC 456-08-650 | INVOLUNTARY DISMISSAL.  |
| WAC 456-08-660 | PROPOSED DECISIONS.   |

WAC 456-08-670 PETITION FOR HEARING—  
SUBPOENAS.

WAC 456-08-700 RULES RELATING TO PLEADINGS—  
FORM AND SIZE OF PLEADINGS.

WAC 456-08-705 RULES RELATING TO PLEADINGS—  
TYPE OF HEARING.

WAC 456-08-710 NOTICE OF APPEAL.

WAC 456-08-715 NOTICE OF APPEAL—AMENDMENTS  
TO PLEADINGS.

WAC 456-08-720 NOTICE OF APPEAL—ANSWER.

WAC 456-08-725 INTERVENTION.

WAC 456-08-730 PARTICIPATION BY AN INTERVENOR.

WAC 456-08-735 PARTICIPATION BY AN INTERVE-  
NOR—AMICUS CURIAE.

WAC 456-08-740 RECORD ON APPEAL.

### WSR 89-06-063 PROPOSED RULES BOARD OF TAX APPEALS

[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Tax Appeals intends to adopt, amend, or repeal rules concerning administration, function, and organization of the board, and practice and procedure before the board in formal hearings, chapter 456-09 WAC;

that the agency will at 10:00 a.m., Friday, April 7, 1989, in the Board of Tax Appeals Office, 910 5th Avenue S.E., Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 82.03.170.

The specific statute these rules are intended to implement is RCW 82.03.140 and 82.03.160.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1989.

Dated: March 1, 1989  
By: David Akana  
Executive Director

### STATEMENT OF PURPOSE

Title: Chapter 456-09 WAC.

Description of Purpose: Adoption of rules describing the organization and rules for conducting formal hearings under the Administrative Procedure Act.

Statutory Authority: RCW 82.03.170.

Specific Statute Rule is Intended to Implement: RCW 82.03.140 and 82.03.160.

Summary of Rule: The rule sets forth the administration of the board, and the rules for practice before the board. The rules for practice include rules on appearances, appeal procedures, service of paper, discovery, conferences, hearing, and disposition of cases.

Reasons Supporting Proposed Action: To update rules of procedure for the board.

Personnel Responsible for Drafting, Implementation and Enforcement: David Akana, 910 Fifth Avenue S.E., Olympia, WA 98504-2712, (206) 753-5446.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Board of Tax Appeals, state agency.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: No impact is anticipated. The rules are strictly procedural.

### Chapter 456-09 WAC FORMAL HEARINGS—PRACTICE AND PROCEDURE

#### WAC

##### HEARING OPTIONS

456-09-010 Formal, informal hearing—Distinction.

##### ADMINISTRATION

456-09-110 Definitions.

456-09-120 Formal rules—Procedure governed.

456-09-130 Organization and office.

456-09-140 Quorum.

456-09-150 Meetings of the board.

456-09-160 Form and size of documents.

456-09-170 Docket number.

##### PRACTICE BEFORE THE BOARD

456-09-210 Appearance and practice before the board—Who may appear.

456-09-220 Rules of professional conduct.

456-09-230 Ex parte communication.

##### APPEAL PROCEDURE

456-09-310 Notice of appeal—Forms—Contents.

456-09-315 Notice of appeal—Timeliness of filing.

456-09-320 Notice of appeal—Service and filing.

456-09-325 Date of filing—Facsimile.

456-09-330 Acknowledgement of notice of appeal.

456-09-335 Computation of time.

456-09-340 Jurisdiction—Issue raised by board—Procedure.

456-09-345 Amendments to notice of appeal.

456-09-350 Notice of appeal—Answer.

456-09-355 Parties in exemption appeals.

456-09-360 Intervention.

456-09-365 Choice of hearing—Conversion.

##### SERVICE OF PAPERS

456-09-410 Service of papers.

456-09-420 Method of service.

456-09-430 Service of papers—When complete.

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##### DISCOVERY AND SUBPOENA

456-09-510 Prehearing procedures—Discovery—Limitation.

456-09-520 Subpoena—Issuance.

456-09-530 Subpoena—Form.

456-09-540 Subpoena—Service.

456-09-550 Subpoena—Proof of service.

456-09-560 Subpoena—Quash or modification.

456-09-570 Subpoena—Geographical scope.

##### CONFERENCES

456-09-610 Conferences—Two types.

456-09-615 Settlement conference—Purpose.

456-09-620 Settlement conference—When held.

456-09-625 Settlement conference—Agreements.

456-09-630 Prehearing conference—Purpose.

456-09-635 Prehearing conference—When held.

456-09-640 Prehearing conference—Documentary evidence.

456-09-645 Prehearing conference—Excerpts from documentary evidence.

456-09-650 Prehearing conference—Failure to supply prehearing information.

456-09-655 Prehearing conference—Agreements.

**HEARING PROCEDURE**

|            |   |
|------------|---|
| 456-09-705 | Advance submission of evidence—Delivery to adverse party. |
| 456-09-710 | Hearing—Setting of time and place.                        |
| 456-09-715 | Continuance—Extensions of time.                           |
| 456-09-720 | Teleconference proceeding.                                |
| 456-09-725 | Briefs.   |
| 456-09-730 | Hearing—Notice of hearing—Time—Contents.                  |
| 456-09-735 | Hearing—Standard and scope of review.                     |
| 456-09-740 | Testimony under oath.                                     |
| 456-09-745 | Failure to attend—Default or dismissal—Setting aside.     |
| 456-09-750 | Dismissal of actions.                                     |
| 456-09-755 | Waiver of parties' appearance.                            |
| 456-09-760 | Rules of evidence—Admissibility criteria.                 |
| 456-09-765 | Official notice—Matters of law.                           |
| 456-09-770 | Official notice—Material facts.                           |
| 456-09-775 | Motions—Application—Requirements.                         |

**DISPOSITION OF CASES**

|            |   |
|------------|---|
| 456-09-910 | Assistance to board.                          |
| 456-09-915 | Presentation of posthearing evidence.         |
| 456-09-920 | Proposed findings and conclusions—Submission. |
| 456-09-925 | Proposed decision.                            |
| 456-09-930 | Exceptions to proposed decision.              |
| 456-09-935 | Reply to exceptions.                          |
| 456-09-940 | Finality of proposed decision.                |
| 456-09-945 | Final decision following proposed decision.   |
| 456-09-950 | Final decision.                               |
| 456-09-955 | Petition for reconsideration.                 |

**SEPA**

|            |                                   |
|------------|-----------------------------------|
| 456-09-970 | Applicability of SEPA guidelines. |
|------------|-----------------------------------|

**HEARING OPTIONS****NEW SECTION**

WAC 456-09-010 FORMAL, INFORMAL HEARING—DISTINCTION. All persons appealing to the board of tax appeals may request that their appeal be heard either as a formal or informal hearing. Formal hearings are requested by parties wishing to carry the record of their appeals to court and are conducted pursuant to the Administrative Procedure Act. Judicial review of a board decision made in a formal hearing is limited to the record made of the proceedings before the board of tax appeals. All parties in formal hearings are normally represented by attorneys although taxpayers may represent themselves in such proceedings. A verbatim record is made of all formal hearings.

Informal hearings are requested by a majority of parties appearing before the board of tax appeals. Decisions entered in an informal appeal may not be appealed to court. Courts may have jurisdiction, however, to hear a timely filed action pursuant to RCW 82.32.180 or 84-.68.020 (see RCW 82.03.180).

Failure to elect a formal or informal hearing within the time provided by statute shall result in the proceeding being conducted as informal.

**ADMINISTRATION****NEW SECTION**

WAC 456-09-110 DEFINITIONS. As used in this chapter, the following terms shall have the following meaning:

(1) "Board" refers to and means the board of tax appeals as described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC. Where appropriate, the term "board" also refers to the designated hearing officers or agents of the board of tax appeals.

(2) "Presiding officer" or "hearing officer" shall mean any member of the board, tax referee, administrative law judge, or any person who is assigned to conduct a conference or hearing by the board.

(3) "Appellant" means a person, natural or otherwise, who appeals any order or decision to the board of tax appeals.

(4) "Respondent" means a person, natural or otherwise, who is named as a responding party in any appeal before the board of tax appeals.

**NEW SECTION**

WAC 456-09-120 FORMAL RULES—PROCEDURE GOVERNED. These rules shall govern all practice and procedure for formal hearings before the board.

Formal proceedings are conducted pursuant to the Administrative Procedure Act. Informal proceedings shall be governed by those rules specified in chapter 456-10 WAC.

**NEW SECTION**

WAC 456-09-130 ORGANIZATION AND OFFICE. The board consists of three members, one of whom is elected chair. Members of the board are appointed by the governor with the consent of the senate and serve on a full-time basis.

The board offices are open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., excluding Saturdays, Sundays, and legal holidays. All submissions, requests, and communications shall be sent to the board at its principal office at 910 5th Avenue S.E., Mailstop EW-12, Olympia, Washington 98504.

**NEW SECTION**

WAC 456-09-140 QUORUM. Two members of the board shall constitute a quorum for making orders or decisions or for promulgating rules and regulations relating to its procedures and may act although one position on the board may be vacant. One member or designated hearing officer may hold hearings and take testimony. The findings of such member or hearing officer shall not become final until approved by a majority of the board in accordance with WAC 456-09-940 or 456-09-950.

**NEW SECTION**

WAC 456-09-150 MEETINGS OF THE BOARD. Regular meetings of the board will be held at its principal office or such other place as the board designates at 10:00 a.m. on the second Friday of each month.

**NEW SECTION**

WAC 456-09-160 FORM AND SIZE OF DOCUMENTS. Documents other than exhibits shall be typewritten or printed, properly captioned, shall be signed by the appropriate authorized individual or officer submitting the same, and shall include their address and telephone number. Pleadings shall be on 8-1/2 x 11 inch paper.

**NEW SECTION**

WAC 456-09-170 DOCKET NUMBER. The board shall assign each appeal a docket number which shall be the official reference number for purposes of identification. Docket numbers for formal hearings shall be indicated by the last two digits of the calendar year in which the appeal was filed, and a number (e.g., 89-21).

**PRACTICE BEFORE THE BOARD****NEW SECTION**

WAC 456-09-210 APPEARANCE AND PRACTICE BEFORE THE BOARD—WHO MAY APPEAR. Practice before the board in formal proceedings shall be limited to the following:

- (1) Taxpayers who are natural persons representing themselves;
- (2) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;
- (3) Attorneys at law entitled to practice before the highest court of record of any other state, if attorneys licensed in the state of Washington are permitted to appear before the courts of such other state in a representative capacity, and if not otherwise prohibited by state law;

(4) A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation; and

- (5) Other persons permitted by law.

NEW SECTION

**WAC 456-09-220 RULES OF PROFESSIONAL CONDUCT.** All persons appearing in proceedings before the board in a representative capacity shall conform to the rules of professional conduct required of attorneys before the courts of Washington. If any such person does not conform to such rules, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board. For example, representatives must observe rules concerning conflict of interests.

NEW SECTION

**WAC 456-09-230 EX PARTE COMMUNICATION.** No one shall make or attempt to make any ex parte communications prohibited by the Administrative Procedure Act. The board, in conducting a formal proceeding governed by the Administrative Procedure Act may not make or attempt to make ex parte communications prohibited by such act. Attempts by anyone to make such prohibited ex parte communications shall subject such person to the sanctions of WAC 456-09-220 and 456-09-750.

**APPEAL PROCEDURE**NEW SECTION

**WAC 456-09-310 NOTICE OF APPEAL—FORMS—CONTENTS.** (1) A notice of appeal shall substantially contain:

(a) A caption in the following form:

| BEFORE THE BOARD OF TAX APPEALS<br>STATE OF WASHINGTON |   |
|--|---|
| Appellant,   | Name of county in which property is located (if applicable)<br>Docket No. _____ |
| v.   | NOTICE OF APPEAL<br>Re: (Type of tax,<br>e.g., excise,<br>property)             |
| Respondent.  |   |

In all cases the appellant shall be the party appealing to the board. The respondent shall be the government agency or the property owner, as the case may be.

(b) Numbered paragraphs stating:

(i) Appellant's name, mailing address, telephone number, and that of the representative, if any.

(ii) The date of the order or determination from which the appeal is taken together with a copy of the order, decision, or application appealed from.

(iii) The nature of the tax, and:

(A) In excise tax cases, the amount of the tax in controversy and the period covered thereby;

(B) In property tax cases, a legal description or parcel number of the property under appeal, the year for which the valuation has been determined, the full value as determined by the local board of equalization, and a declaration of true and fair value as alleged by the appellant;

(C) In property tax exemption cases, a legal description and/or parcel number of the property under appeal, the basis under which exempt status should be granted or denied, and the use of the property; and

(D) In pollution control tax exemption and credit certificate cases (chapter 82.34 RCW), the amount to which the credit or exemption should apply, and the grounds for such contention.

(iv) A clear, separate, and concise assignment of each error alleged and a short statement of facts upon which the appellant relies to sustain each contention.

(v) A notice of intention that the hearing be held pursuant to the Administrative Procedure Act.

(vi) The relief sought.

(c) A statement that the appellant has read the notice and believes the contents to be true, followed by the party's signature and signature of their attorney or qualified representative, if any. The signature of a party, attorney, or qualified representative constitutes a certificate that

the pleading has been read and that to the best personal knowledge, information, and belief, there is good ground to support it, and that it is not interposed for delay. If determined by the board that a pleading is not signed or is signed with the intent to defeat the purpose of this section, it may be stricken and the action may proceed as though the pleading had not been served.

(2) For informal appeals from decisions of a board of equalization or the department of revenue, the appellant may use forms provided by the board.

NEW SECTION

**WAC 456-09-315 NOTICE OF APPEAL—TIMELINESS OF FILING.** Any appeal to the board pursuant to RCW 82.03.190, 82-03.130, 84.08.130, 84.48.075, 84.36.850, 84.33.091, 84.34.065, 82.34-110, 82.03.130, 79.94.210, 39.88.060, 82.49.060, 84.08.110, or any other applicable statute shall be filed within the time required by the statute governing the respective agency or proceeding involved.

NEW SECTION

**WAC 456-09-320 NOTICE OF APPEAL—SERVICE AND FILING.** (1) Except as provided in subsection (2) of this section, notice of appeal shall be filed with the board and a copy served upon all other parties in accordance with the provisions of this chapter and a certificate of service shall be filed with the board pursuant to WAC 456-09-440.

(2)(a) Notice of an appeal authorized under RCW 82.03.130(2) (appeal from action of the board of equalization) shall be filed in duplicate with the appropriate county auditor within thirty days after the mailing of the board of equalization's decision; and the appellant shall serve a copy of the notice on all other named parties.

(b) In King County, notice of appeal shall be filed in duplicate with the clerk of the county council.

(c) The county auditor or clerk shall transmit one copy of the notice of appeal to the board and shall retain the other for its files.

(d) Appeals not properly or timely filed as provided in this section shall be continued or dismissed.

NEW SECTION

**WAC 456-09-325 DATE OF FILING—FACSIMILE.** (1) Except as provided in subsection (3) of this section, the date of filing of all papers shall be the date of actual receipt by the board at its Olympia office. The date stamp placed thereon shall be prima facie evidence of the date of receipt.

(2) Except as provided in subsection (3) of this section, all documents may be filed with the board via facsimile machine. However, filing will not be deemed complete unless the following procedures are strictly observed:

(a) A facsimile document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated on the facsimile shall be prima facie evidence of the date and time of receipt of transmission.

(b) The original document must be filed with the board within ten days from the date of transmission.

(c) A receipt from the sending station must be filed with the original document showing:

(i) The date of transmission;

(ii) The time of transmission; and

(iii) The facsimile identification number of the board.

(d) All transmissions are sent at the risk of the sender.

(3) In appeals pursuant to RCW 82.03.130(2) (appeal from board of equalization) the date of filing shall be the date of receipt by the county auditor or, in King County, the clerk of the county council. The date stamp placed on the notice of appeal by the auditor or clerk shall be prima facie evidence of the date of receipt.

NEW SECTION

**WAC 456-09-330 ACKNOWLEDGEMENT OF NOTICE OF APPEAL.** Upon written request of an appellant, the board will acknowledge receipt of a notice of appeal indicating the date of filing if the appellant submits a self-addressed stamped envelope with the request.

**NEW SECTION**

**WAC 456-09-335 COMPUTATION OF TIME.** In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

**NEW SECTION**

**WAC 456-09-340 JURISDICTION—ISSUE RAISED BY BOARD—PROCEDURE.** (1) Any party may, by motion, challenge the jurisdiction of the board in any appeal. The board may, upon its own motion, raise such jurisdictional issues.

(2) When the board determines that an appeal has been untimely filed, an order of dismissal will be mailed to all parties. An exception to the order of dismissal may be filed within twenty days after mailing of such order. The original and three copies of the exception shall be filed with the board and a copy served upon all other parties.

**NEW SECTION**

**WAC 456-09-345 AMENDMENTS TO NOTICE OF APPEAL.** Except as provided in WAC 456-09-705 a notice of appeal may be amended as a matter of right until thirty days after filing have elapsed.

Thereafter any amendments can only be made after approval of the board. Amendments shall be freely granted and may be denied only upon a showing by the adverse party of unreasonable and unavoidable hardship. The board may, upon motion of a party or upon its own motion, require a more complete statement of the nature of the claim or defense or any matter stated in any pleading.

**NEW SECTION**

**WAC 456-09-350 NOTICE OF APPEAL—ANSWER.** The respondent may file an answer with the board. If filed, the respondent shall file the original with the board and serve a copy thereof on the appellant within thirty days after the service of notice of appeal or any amendment thereto. Answers shall be verified in the same manner as the notice of appeal.

**NEW SECTION**

**WAC 456-09-355 PARTIES IN EXEMPTION APPEALS.** When an appeal is filed with the board under RCW 84.36.850, appealing from an exemption ruling by the department of revenue, the department of revenue will be designated as the respondent. The department of revenue, the property owner, and the assessor may all be parties to the appeal and shall be entitled to all the rights of a party. The person filing the appeal will be designated as the appellant, and the nonappealing party will also be designated as a respondent.

**NEW SECTION**

**WAC 456-09-360 INTERVENTION.** (1) Any person or agency whose interest may be substantially affected by an appeal may petition the board to be granted status as an intervenor in the appeal.

(2) In determining whether a petitioner qualifies as an intervenor, the presiding officer shall apply the rules of the superior courts of this state.

(3) If the petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest as demonstrated by the petition;

(b) Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

(4) The presiding officer may timely grant or deny each petition and specify conditions, if any.

**NEW SECTION**

**WAC 456-09-365 CHOICE OF HEARING—CONVERSION.** (1) In all appeals over which the board has jurisdiction, a party taking an appeal may elect, with its notice of appeal, either a formal or informal hearing pursuant to RCW 82.03.140.

(2) The assessor or taxpayer, as a party to an appeal pursuant to RCW 84.08.130 (appeals from the board of equalization) may, within twenty days from the date of receipt of the notice of appeal, file with the clerk of the board notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act.

(3) In appeals under RCW 82.03.190 and 82.03.130(5), except as otherwise provided in this subsection and subsection (2) of this section, the department of revenue may, within ten days of receipt of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act.

(4) The parties may agree at any time before hearing, in writing, to convert the proceedings to either formal or informal.

**SERVICE OF PAPERS****NEW SECTION**

**WAC 456-09-410 SERVICE OF PAPERS.** (1) Copies of all documents, exhibits, and papers filed with the board shall be served upon all counsel or representatives of record and upon parties not represented.

(2) Such service upon the representative shall be considered valid service for all purposes upon the party represented.

(3) Decisions or orders of the board shall be served upon both the party and their counsel or representative of record, if any.

**NEW SECTION**

**WAC 456-09-420 METHOD OF SERVICE.** Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail, by telegraph, or by facsimile.

**NEW SECTION**

**WAC 456-09-430 SERVICE OF PAPERS—WHEN COMPLETE.** (1) Except as provided in subsection (2) of this section, service by mail shall be regarded as complete upon deposit in the United States mail properly stamped and addressed, or by telegraph when deposited with a telegraph company properly addressed with the charges prepaid. Service by facsimile shall be deemed complete only when the following procedure is observed:

(a) The original document must be filed with the board within ten days from the date of transmission.

(b) A receipt from the sending station must be filed with the original document showing:

- (i) The date of transmission;
- (ii) The time of transmission; and
- (iii) The facsimile identification number of the receiving station.

(c) All transmissions are sent at the risk of the sender.

(2) This section shall not extend any applicable time for appeal to the board nor extend the time for providing notice of appeal to any named party.

**NEW SECTION**

**WAC 456-09-440 PROOF OF SERVICE—CERTIFICATE.** Where proof of service is required by this chapter, by statute, or upon the board's request, filing a copy of the papers with the board together with either an acknowledgment of service or a certificate substantially as follows, shall constitute proof of service:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy thereof in person to (names) or by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or their attorney or authorized agent.

DATED at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(signature)

**DISCOVERY AND SUBPOENA****NEW SECTION**

**WAC 456-09-510 PREHEARING PROCEDURES—DISCOVERY—LIMITATION.** Insofar as applicable and not in conflict with this chapter, the statutes and court rules regarding pretrial procedures in civil cases in superior courts of the state of Washington shall be used. Such statutes and rules shall include but shall not be limited to those rules pertaining to discovery of evidence by parties to civil actions.

The board may limit discovery upon motion by any party.

**NEW SECTION**

**WAC 456-09-520 SUBPOENA—ISSUANCE.** Subpoenas shall be issued and enforced, and witness fees paid, as provided in the Administrative Procedure Act. Subpoenas may be issued by the board or by an attorney of record. The person issuing shall sign the subpoena. Parties desiring subpoenas to be signed by the board shall make a showing of relevance and reasonable scope of the testimony or evidence sought and shall prepare the subpoenas for issuance, send them to the board's Olympia office for signature and, upon return, shall make arrangements for service.

**NEW SECTION**

**WAC 456-09-530 SUBPOENA—FORM.** Every subpoena shall name the board of tax appeals and the title of the proceedings and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under that person's control at a specified time and place. The time specified shall be a date not less than five days from the date of service.

**NEW SECTION**

**WAC 456-09-540 SUBPOENA—SERVICE.** Service of subpoenas shall be made by delivering a copy of the subpoena to such person and tendering on demand, where entitled to make a demand, the fees for one day's attendance and the mileage allowed by law. All costs, which include the cost of producing records, shall be paid by the party requesting issuance of the subpoena. A subpoena may be served by any suitable person at least eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at his or her abode. Proof of service shall be made when service is made by a person other than an officer authorized to serve process.

**NEW SECTION**

**WAC 456-09-550 SUBPOENA—PROOF OF SERVICE.** Proof of service and the required return affidavit shall be filed with the board.

**NEW SECTION**

**WAC 456-09-560 SUBPOENA—QUASH OR MODIFICATION.** If the subpoena issued is unreasonable or requires evidence not relevant to any matter in issue, the board may quash or modify the subpoena. The person to whom the subpoena was issued must bring a motion to quash or modify at or before the time specified in the subpoena for compliance and upon notice to the party for whom the subpoena was issued.

**NEW SECTION**

**WAC 456-09-570 SUBPOENA—GEOGRAPHICAL SCOPE.** Attendance of witnesses and production of evidence may be required from any place in the state of Washington at any designated place of hearing.

**CONFERENCES****NEW SECTION**

**WAC 456-09-610 CONFERENCES—TWO TYPES.** Conferences shall be of two types: Settlement and prehearing.

**NEW SECTION**

**WAC 456-09-615 SETTLEMENT CONFERENCE—PURPOSE.** The purpose of a settlement conference shall be to determine the feasibility of a settlement of the matter being appealed. The presiding officer will be present at the opening and closing of a scheduled settlement conference. The presiding officer may leave the conference room from time to time if it may facilitate an agreement or settlement.

**NEW SECTION**

**WAC 456-09-620 SETTLEMENT CONFERENCE—WHEN HELD.** At any time prior to hearing, the board may, upon its own motion or upon written application, order a settlement conference. The conference shall be scheduled with not less than fourteen days notice to each party at a time and place fixed by the board.

**NEW SECTION**

**WAC 456-09-625 SETTLEMENT CONFERENCE—AGREEMENTS.** (1) All agreements reached at settlement conferences will be set forth in the record by the presiding officer.

(2) If an agreement is reached by all the parties present or represented, an order may be issued conforming to the agreement, providing the board finds said agreement is in accordance with the law.

(3) If no agreement is reached by the parties as to final disposition of the matter before hearing, a prehearing conference may thereafter be held.

**NEW SECTION**

**WAC 456-09-630 PREHEARING CONFERENCE—PURPOSE.** The purpose of a prehearing conference is to:

(1) Obtain a stipulation of facts to show the board's jurisdiction in the matter;

(2) Obtain agreement as to the issues of law and fact presented and the simplification or limitation thereof;

(3) Determine the necessity of amendments to the appeal or other pleadings;

(4) Determine the possibility of obtaining admissions of facts and authenticity of documents which will avoid unnecessary proof;

(5) Determine the admissibility of exhibits;

(6) Obtain stipulation as to all or part of the facts in the case;

(7) Obtain information as to the number of expert and lay witnesses expected to be called by the parties and their names when possible;

(8) Determine the approximate time necessary for the presentation of evidence of the respective parties; and

(9) Obtain all other information which may aid in the prompt disposition of the matter.

**NEW SECTION**

**WAC 456-09-635 PREHEARING CONFERENCE—WHEN HELD.** The board may at its discretion or upon application of any party hold a prehearing conference. The conference shall be held at such time as ordered by the board or not less than fourteen days notice to each party. The conference may also be held immediately at the conclusion of a settlement conference if time permits.

**NEW SECTION**

**WAC 456-09-640 PREHEARING CONFERENCE—DOCUMENTARY EVIDENCE.** (1) All rulings upon objections to the admissibility of evidence shall be made in accordance with the provisions of the Administrative Procedure Act.

(2) Where practicable, the board may order:

(a) That all documentary evidence which is to be offered during the hearing be submitted to the board and to other parties sufficiently in advance to permit study and preparation of cross-examination and rebuttal evidence.

(b) That documentary evidence not submitted as required in (a) of this subsection not be received in evidence in the absence of a clear showing that the offering party had good cause for the failure to produce the evidence sooner, unless it is submitted for impeachment purposes.

(c) That the authenticity of all documents so presented and examined be deemed admitted unless written objection thereto is filed within fourteen days after receipt. A party will be permitted to challenge such

authenticity at a later time only upon a clear showing of good cause for failure to have filed such written objection.

(3) The board may limit the documentary evidence to that presented at any prehearing conference. A party may submit additional documentary evidence at the time of hearing only upon a showing of good cause.

#### NEW SECTION

**WAC 456-09-645 PREHEARING CONFERENCE—EXCERPTS FROM DOCUMENTARY EVIDENCE.** When only portions of a document are to be relied upon, the offering party shall adequately identify and prepare the pertinent excerpts and shall supply copies of such excerpts to the presiding officer and to the other parties. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

#### NEW SECTION

**WAC 456-09-650 PREHEARING CONFERENCE—FAILURE TO SUPPLY PREHEARING INFORMATION.** The board may suspend the setting of a hearing if any party fails to supply the information reasonably necessary to aid the board in properly scheduling hearings. The board may suspend setting of a hearing pending receipt of the required information or may refuse to grant such party a continuance of the original hearing or may otherwise restrict the time or location of hearing for receipt of such party's evidence.

#### NEW SECTION

**WAC 456-09-655 PREHEARING CONFERENCE—AGREEMENTS.** At the conclusion of a prehearing conference, the board may require the parties to submit proposed prehearing orders. Thereafter the board will issue an order reciting the action taken at the conference. The order may include provisions pertaining to:

- (1) Amendments allowed to the pleadings;
- (2) Admissions;
- (3) Witnesses;
- (4) Exhibits;
- (5) Issues remaining;
- (6) Agreements by the parties;
- (7) Rulings; and
- (8) Any other matter that may expedite the hearing.

Any objection to such order shall be filed within ten days after the date the order is mailed. The order shall control subsequent proceedings unless modified for good cause.

#### **HEARING PROCEDURE**

#### NEW SECTION

**WAC 456-09-705 ADVANCE SUBMISSION OF EVIDENCE—DELIVERY TO ADVERSE PARTY.** (1) Copies of all documentary evidence which is to be introduced at hearing shall be submitted to the board in advance. The department of revenue, department of natural resources, or the assessor shall submit such evidence at least ten business days prior to hearing. The taxpayer or other party shall submit such evidence at least five business days prior to hearing. Failure to comply may be grounds for exclusion of such evidence or dismissal in accordance with WAC 456-09-750.

(2) Evidence of comparable sales listed in the notice of appeal or answer which are subsequently amended, shall conform to this section and may be excepted from the requirements of WAC 456-09-345 (Amendments to notice of appeal) and 456-09-350 (Notice of appeal—Answer).

(3) All correspondence and all documents filed with the board shall indicate that copies have been mailed or delivered to the attorney or representative of record or the adverse party if not represented.

(4) An acknowledgement of service or certificate of mailing as provided in WAC 456-09-440 shall be filed with the board together with the advance submission of documentary evidence as required in subsection (1) of this section.

#### NEW SECTION

**WAC 456-09-710 HEARING—SETTING OF TIME AND PLACE.** (1) The board will generally not schedule a hearing until the filing of the answer or, in the absence thereof, thirty days after filing of the notice of appeal.

(2) The board will set a time and place for hearing. The parties shall, upon request of the board, submit written estimates of the time that will be required to hear the matter.

(3) Where the board deems appropriate or at a party's request, the board may set prehearing or settlement conference dates.

#### NEW SECTION

**WAC 456-09-715 CONTINUANCE—EXTENSIONS OF TIME.** (1) Continuances and extensions of time may be ordered on timely request of any party. The request shall show good cause and shall be served upon all other parties.

(2) This section shall not extend any applicable time for appeal to this board nor extend the time for providing notice of appeal to any named party.

#### NEW SECTION

**WAC 456-09-720 TELECONFERENCE PROCEEDING.** (1) At the discretion of the board, and where the rights of the parties will not be prejudiced thereby, all or part of the hearing, prehearing, or settlement conference may be conducted by telephone, television, or other electronic means. Each party in the proceeding must have an opportunity to participate effectively in, to hear, and if technically and economically feasible, to see the entire proceeding while it is taking place.

(2) The board may require documentary evidence to be submitted sufficiently in advance of the proceeding.

#### NEW SECTION

**WAC 456-09-725 BRIEFS.** The original and four copies of briefs shall be filed with the board at least five business days prior to hearing unless otherwise provided by the board. When briefs are filed, a copy shall also be served on the other parties. The board may permit or require the filing of additional briefs.

#### NEW SECTION

**WAC 456-09-730 HEARING—NOTICE OF HEARING—TIME—CONTENTS.** (1) Time. Notice of a hearing will be mailed to all parties and to all persons having filed written petitions to intervene not less than twenty days before the hearing date. The twenty-day notice provision may be waived by agreement of all parties.

(2) Contents. The notice shall contain:

- (a) The names and mailing addresses of the parties and their representatives, if any;
- (b) The docket number and name of the proceeding;
- (c) The name, official title, mailing address, and telephone number of the presiding officer, if known;
- (d) A statement of the time, place, date, and general nature of the proceeding (e.g., excise, property, etc.);
- (e) A statement that the hearing is held pursuant to chapter 82.03 RCW and Title 456 WAC;
- (f) A statement of the issues or matters asserted and the particular sections of the statutes or rules involved as stated in the notice of appeal and responsive pleading, if any;
- (g) A statement that if a qualified interpreter is needed, one will be appointed at no cost to the party or witness upon five days written notice; and
- (h) A statement that a party who fails to attend or participate at hearing may be held in default in accordance with WAC 456-09-745.

#### NEW SECTION

**WAC 456-09-735 HEARING—STANDARD AND SCOPE OF REVIEW.** (1) The board will apply the specific criteria provided by law in making its decision on each case.

(2) Hearings shall be quasi-judicial in nature and shall be conducted de novo unless otherwise provided by law.

(3) All pleadings shall be liberally construed with the view of substantial justice between the parties. The board may disregard any error or defect in the pleadings or proceedings which does not affect the substantial rights of the adverse party.

#### NEW SECTION

**WAC 456-09-740 TESTIMONY UNDER OATH.** All testimony to be considered by the board shall be sworn, and each person shall

swear or affirm that the testimony to be given shall be the truth, the whole truth, and nothing but the truth.

#### NEW SECTION

**WAC 456-09-745 FAILURE TO ATTEND—DEFAULT OR DISMISSAL—SETTING ASIDE.** (1) When a party to these proceedings has, after notice, failed to attend a hearing, a motion for default or dismissal may be sought by any party to the proceedings or raised by the board upon its own motion. Any such order shall include a statement of the grounds for the order and shall be served upon all parties to the proceeding.

(2) Within ten days after service of the default order or dismissal under subsection (1) of this section, the party against whom the order was entered may file a written objection requesting that the order be vacated and stating the specific grounds relied upon. The board may, for good cause, set aside an entry of dismissal, default, or final order.

#### NEW SECTION

**WAC 456-09-750 DISMISSAL OF ACTIONS.** Any action may be dismissed by the board:

(1) When all parties so stipulate;

(2) Upon motion of the appellant prior to the presentation of the respondent's case;

(3) Upon motion by the respondent alleging that the appellant has failed to prosecute the case, failed to comply with this chapter, or failed to follow any order of the board; or

(4) Upon the board's own motion for failure by the parties to comply with applicable rules or any order of the board.

#### NEW SECTION

**WAC 456-09-755 WAIVER OF PARTIES' APPEARANCE.** Upon stipulation by both parties that no facts are at issue, an appeal may be submitted to the board with or without oral argument. However, the board in its discretion may require appearance for argument.

#### NEW SECTION

**WAC 456-09-760 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA.** (1) All relevant evidence, including hearsay evidence, is admissible if, in the opinion of the board, the offered evidence is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The board shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The board may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(2) The board's experience, technical knowledge, competency, and specialized knowledge may be used in evaluation of evidence.

(3) If not inconsistent with subsection (1) of this section, the board may refer to, but shall not be bound by, the Washington rules of evidence.

(4) Documentary evidence may be submitted in the form of copies or excerpts.

#### NEW SECTION

**WAC 456-09-765 OFFICIAL NOTICE—MATTERS OF LAW.** The board may officially notice:

(1) Federal law. The Constitution; congressional acts, resolutions, records, journals, and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders, and notices published in the Federal Register.

(2) State law. The Constitution of the state of Washington; decisions of the state courts; acts of the legislature, resolutions, records, journals, and committee reports; decisions of administrative agencies of the state of Washington; executive orders and proclamations by the governor; and all rules, orders, and notices filed with the code reviser.

(3) Counties and cities. Ordinances and resolutions enacted by cities, counties, or other municipal subdivisions of the state of Washington.

(4) Governmental organization. Organization, territorial limitations, officers, departments and general administration of the government of the state of Washington, the United States, the several states, and foreign nations.

(5) Agency organization. The department, commission, or board organization, administration, officers, personnel, official publications, and practitioners before its bar.

#### NEW SECTION

**WAC 456-09-770 OFFICIAL NOTICE—MATERIAL FACTS.** In the absence of controverting evidence, the board, upon request made before or during a hearing, may officially notice:

(1) Board proceedings. The pendency of the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the board.

(2) Business customs. General customs and practices followed in the transaction of business.

(3) Notorious facts. Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including, but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency.

(4) Request or suggestion. Any party may request, or the board may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision.

(5) Statement. Where an initial or final decision of the board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the board may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence.

(6) Controversy. Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply, or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversy shall concisely and clearly set forth the sources, authority, and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision.

#### NEW SECTION

**WAC 456-09-775 MOTIONS—APPLICATION—REQUIREMENTS.** (1) Any application for an order or ruling is a motion. Every motion, unless made during hearing, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(2) All motions shall be properly captioned and signed by the party or their attorney.

(3) The board will deny or dismiss any motion unless the moving party, before motion, has made a good faith effort to confer with the other parties concerning the issues in dispute. The moving party shall include in the motion a statement of compliance with this subsection.

(4) A response to the motion shall be filed within ten days after the date of service.

(5) In the motion and response, the parties shall specify the amount of time required for argument, whether appearance by telecommunication is requested, the names and telephone numbers of all parties served with the motion or response, and whether court reporting services are requested.

#### DISPOSITION OF CASES

#### NEW SECTION

**WAC 456-09-910 ASSISTANCE TO BOARD.** (1) The board may obtain assistance concerning the appeal of any case within the scope of RCW 82.03.130(2) from the staff of the department of revenue as provided by RCW 82.03.160. The board will notify the parties

of its intent to seek such assistance and the matters sought to be investigated before contacting the department of revenue. Parties may recommend an alternative to the board to achieve the same objectives without contacting the department of revenue.

(2) Any evidence from the department of revenue concerning assistance requested under this section shall only be presented in open hearing after notice to all parties.

#### NEW SECTION

**WAC 456-09-915 PRESENTATION OF POSTHEARING EVIDENCE.** Unless requested by the board, no posthearing evidence will be accepted unless such evidence could not reasonably have been anticipated or discovered prior to hearing.

#### NEW SECTION

**WAC 456-09-920 PROPOSED FINDINGS AND CONCLUSIONS—SUBMISSION.** At the discretion of the board, parties may file proposed findings of fact and conclusions of law. Proposed findings of fact and conclusions of law shall be filed within the time period set by the board.

#### NEW SECTION

**WAC 456-09-925 PROPOSED DECISION.** A proposed decision shall be prepared when:

- (1) An appeal has been heard by only one member of the board;
- (2) An appeal has been heard by only two members of the board and the two members cannot agree on a conclusion;
- (3) An appeal has been heard by a hearing officer; or
- (4) The board shall otherwise elect to do so.

#### NEW SECTION

**WAC 456-09-930 EXCEPTIONS TO PROPOSED DECISION.**

(1) Time for filing. Any party may file a written exception with the board within twenty days from the date of mailing of the proposed decision or, upon timely application, within such further time as the board may allow. An original and four copies shall be filed with the board, and a copy shall be served on all other parties.

(2) Contents. Exceptions shall contain the specific factual and legal grounds upon which the exception is based. The party or parties filing the exception shall be deemed to have waived all objections or irregularities not specifically set forth. The statement of exceptions should also contain the exceptor's proposed findings of fact and/or conclusions of law addressing the factual and legal issues to which exceptions are being taken.

(3) Failure of a party to comply with the requirements for exceptions may result in the board issuing an order adopting the proposed decision as the final decision of the board on the ground that no legally sufficient statement of exceptions had been filed.

#### NEW SECTION

**WAC 456-09-935 REPLY TO EXCEPTIONS.** Any party may, within ten days or such further time as the board may allow, submit a reply to exceptions or a written brief or statement of position regarding the matters on which exceptions were taken. The board may require the parties to submit written briefs or statements of position or to appear and present oral argument regarding the matters on which exceptions were taken, within such time and on such terms as may be prescribed.

#### NEW SECTION

**WAC 456-09-940 FINALITY OF PROPOSED DECISION.** If exceptions are not filed, the proposed decision may be adopted by the board and become the board's final decision. Such adoption of the proposed decision shall be the final decision of the board.

#### NEW SECTION

**WAC 456-09-945 FINAL DECISION FOLLOWING PROPOSED DECISION.** After the filing of exceptions and any responses, the record before the board shall be considered by at least two members of the board.

#### NEW SECTION

**WAC 456-09-950 FINAL DECISION.** When an appeal has been heard or the record considered by a majority of the board, a final decision may be adopted which shall contain findings and conclusions as to each contested issue of fact and law.

#### NEW SECTION

**WAC 456-09-955 PETITION FOR RECONSIDERATION.** After a final decision has been issued, any party may file a petition for reconsideration with the board. Such petition must be filed within ten days from the mailing of the final decision. The original and four copies of the petition for reconsideration shall be filed with the board and served upon all parties and representatives of record. The board may require that an answer be filed and served in the same manner. The filing of a petition for reconsideration shall suspend the final decision until action by the board. The board may deny the petition, modify its decision, or reopen the hearing. A petition for reconsideration is not available where a proposed decision was first issued.

SEPA

#### NEW SECTION

**WAC 456-09-970 APPLICABILITY OF SEPA GUIDELINES.** The board has reviewed its authorized activities pursuant to WAC 197-11-800(12) and has found them all to be exempt from the provisions of chapter 197-11 WAC.

### **WSR 89-06-064 PROPOSED RULES BOARD OF TAX APPEALS**

[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Tax Appeals intends to adopt, amend, or repeal rules concerning administration, function, and organization of the board, and practice and procedure before the board in informal hearings, chapter 456-10 WAC;

that the agency will at 10:00 a.m., Friday, April 7, 1989, in the Board of Tax Appeals Office, 910 5th Avenue S.E., Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 82.03.170.

The specific statute these rules are intended to implement is RCW 82.03.140 and 82.03.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1989.

Dated: March 1, 1989

By: David Akana  
Executive Director

#### **STATEMENT OF PURPOSE**

Title: Chapter 456-10 WAC.

Description of Purpose: Adoption of rules describing the organization and rules for conducting informal hearings before the Board of Tax Appeals.

Statutory Authority: RCW 82.03.170.

Specific Statute Rule is Intended to Implement: RCW 82.03.140 and 82.03.150.

**Summary of Rule:** The rules sets forth the administration of the board, and the rules for practice before the board in formal hearings. The rules for practice include rules on appearances, appeal procedures, service of papers, hearing, and disposition of cases.

**Reasons Supporting Proposed Action:** To update rules of procedure for the board.

**Personnel Responsible for Drafting, Implementation and Enforcement:** David Akana, 910 Fifth Avenue S.E., Olympia, WA 98504-2712, (206) 753-5446.

**Person or Organization Proposing Rule, and Whether Public, Private, or Governmental:** Board of Tax Appeals, state agency.

**Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters:** None.

**Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action:** No.

**Small Business Economic Impact Statement:** No impact is anticipated. The rules are strictly procedural.

#### Chapter 456-10 WAC

#### INFORMAL HEARINGS—PRACTICE AND PROCEDURE

#### WAC

##### HEARING OPTIONS

456-10-010 Formal, informal hearing—Distinction.

##### ADMINISTRATION

456-10-110 Definitions.

456-10-120 Informal rules—Procedure governed.

456-10-130 Use of formal rules in informal proceedings.

456-10-140 Organization and office.

456-10-150 Quorum.

456-10-160 Meetings of the board.

456-10-170 Form and size of documents.

456-10-180 Docket number.

##### PRACTICE BEFORE THE BOARD

456-10-210 Appearance and practice before the board—Who may appear.

456-10-220 Rules of professional conduct.

456-10-230 Ex parte communication.

##### APPEAL PROCEDURE

456-10-310 Notice of appeal—Forms—Contents.

456-10-315 Notice of appeal—Timeliness of filing.

456-10-320 Notice of appeal—Service and filing.

456-10-325 Date of filing—Facsimile.

456-10-330 Acknowledgement of notice of appeal.

456-10-335 Computation of time.

456-10-340 Jurisdiction—Issue raised by board—Procedure.

456-10-345 Amendments to notice of appeal.

456-10-350 Notice of appeal—Answer.

456-10-355 Parties in exemption appeals.

456-10-360 Choice of hearing—Conversion.

##### SERVICE OF PAPERS

456-10-410 Service of papers.

456-10-420 Method of service.

456-10-430 Service of papers—When complete.

456-10-440 Proof of service—Certificate.

##### HEARING PROCEDURE

456-10-505 Advance submission of evidence—Delivery to adverse party.

456-10-510 Hearing—Setting of time and place.

456-10-515 Continuance—Extensions of time.

456-10-520 Teleconference proceeding.

456-10-525 Briefs.

456-10-530 Hearing—Notice of hearing—Time—Contents.

456-10-535 Hearing—Standard and scope of review.

456-10-540 Hearing—Procedure.

|            |   |
|------------|---|
| 456-10-545 | Testimony under oath.                                 |
| 456-10-550 | Failure to attend—Default or dismissal—Setting aside. |
| 456-10-555 | Dismissal of actions.                                 |
| 456-10-560 | Waiver of parties' appearance.                        |
| 456-10-565 | Rules of evidence—Admissibility criteria.             |
| 456-10-570 | Motions—Application—Requirements.                     |

##### DISPOSITION OF CASES

|            |   |
|------------|---|
| 456-10-710 | Assistance to board.                          |
| 456-10-715 | Presentation of posthearing evidence.         |
| 456-10-720 | Proposed findings and conclusions—Submission. |
| 456-10-725 | Proposed decision.                            |
| 456-10-730 | Exceptions to proposed decision.              |
| 456-10-735 | Reply to exceptions.                          |
| 456-10-740 | Finality of proposed decision.                |
| 456-10-745 | Final decision following proposed decision.   |
| 456-10-750 | Final decision.                               |
| 456-10-755 | Petition for reconsideration.                 |

##### SEPA

|            |                                   |
|------------|-----------------------------------|
| 456-10-970 | Applicability of SEPA guidelines. |
|------------|-----------------------------------|

##### HEARING OPTIONS

##### NEW SECTION

**WAC 456-10-010 FORMAL, INFORMAL HEARING—DISTINCTION.** All persons appealing to the board of tax appeals may request that their appeal be heard either as a formal or informal hearing. Formal hearings are requested by parties wishing to carry the record of their appeals to court and are conducted pursuant to the Administrative Procedure Act. Judicial review of a board of tax appeals decision made in a formal hearing is limited to the record made of the proceedings before the board of tax appeals. All parties in formal hearings are normally represented by attorneys although taxpayers may represent themselves in such proceedings. A verbatim record is made of all formal hearings.

Informal hearings are requested by a majority of parties appearing before the board of tax appeals. Decisions entered in an informal appeal may not be appealed to court. Courts may have jurisdiction, however, to hear a timely filed action pursuant to RCW 82.32.180 or 84-68.020 (see RCW 82.03.180).

Failure to elect a formal or informal hearing within the time provided by statute shall result in the proceeding being conducted as informal.

##### ADMINISTRATION

##### NEW SECTION

**WAC 456-10-110 DEFINITIONS.** As used in this chapter, the following terms shall have the following meaning:

(1) "Board" refers to and means the board of tax appeals as described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC. Where appropriate, the term "board" also refers to the designated hearing officers or agents of the board of tax appeals.

(2) "Presiding officer" or "hearing officer" shall mean any member of the board, tax referee, administrative law judge, or any person who is assigned to conduct a conference or hearing by the board.

(3) "Appellant" means a person, natural or otherwise, who appeals any order or decision to the board of tax appeals.

(4) "Respondent" means a person, natural or otherwise, who is named as a responding party in any appeal before the board of tax appeals.

##### NEW SECTION

**WAC 456-10-120 INFORMAL RULES—PROCEDURE GOVERNED.** This chapter shall govern all practice and procedure for informal hearings before the board. Formal proceedings shall be governed by those rules specified in chapter 456-09 WAC.

##### NEW SECTION

**WAC 456-10-130 USE OF FORMAL RULES IN INFORMAL PROCEEDINGS.** Where procedures are not covered by this chapter or where ambiguities exist, the board may upon its own motion

or upon written application by any party, refer to and use any rule provided in chapter 456-09 WAC (formal rules).

#### NEW SECTION

**WAC 456-10-140 ORGANIZATION AND OFFICE.** The board consists of three members, one of whom is elected chair. Members of the board are appointed by the governor with the consent of the senate and serve on a full-time basis.

The board offices are open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., excluding Saturdays, Sundays, and legal holidays. All submissions, requests, and communications shall be sent to the board at its principal office at 910 5th Avenue S.E., Mailstop EW-12, Olympia, Washington 98504.

#### NEW SECTION

**WAC 456-10-150 QUORUM.** Two members of the board shall constitute a quorum for making orders or decisions or for promulgating rules and regulations relating to its procedures and may act although one position on the board may be vacant. One member or designated hearing officer may hold hearings and take testimony. The findings of such member or hearing officer shall become final in accordance with WAC 456-10-740.

#### NEW SECTION

**WAC 456-10-160 MEETINGS OF THE BOARD.** Regular meetings of the board will be held at its principal office or such other place as the board designates at 10:00 a.m. on the second Friday of each month.

#### NEW SECTION

**WAC 456-10-170 FORM AND SIZE OF DOCUMENTS.** Documents other than exhibits shall be typewritten or printed, properly captioned, shall be signed by the appropriate authorized individual or officer submitting the same, and shall include their address and telephone number. Pleadings shall be on 8-1/2 x 11 inch paper.

#### NEW SECTION

**WAC 456-10-180 DOCKET NUMBER.** The board shall assign each appeal a docket number which shall be the official reference number for purposes of identification. Docket numbers for informal hearings shall be indicated by consecutive number with no year indication (e.g., 38025).

### PRACTICE BEFORE THE BOARD

#### NEW SECTION

**WAC 456-10-210 APPEARANCE AND PRACTICE BEFORE THE BOARD—WHO MAY APPEAR.** The right to practice before the board in informal proceedings shall be limited to the following:

- (1) Taxpayers who are natural persons representing themselves;
- (2) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;
- (3) Attorneys at law entitled to practice before the highest court of record of any other state, if attorneys licensed in the state of Washington are permitted to appear before the courts of such other state in a representative capacity, and if not otherwise prohibited by state law;
- (4) Public officials in their official capacity;
- (5) Certified public accountants and licensed public accountants entitled to practice accountancy in the state of Washington;
- (6) A duly authorized director, officer, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation;
- (7) Partners, joint venturers, or trustees representing their respective partnerships, joint venturers, or trusts; and
- (8) Other persons designated by a taxpayer with approval of the board.

#### NEW SECTION

**WAC 456-10-220 RULES OF PROFESSIONAL CONDUCT.** All persons appearing in proceedings before the board in a representative capacity shall conform to the rules of professional conduct required of attorneys before the courts of Washington. If any such person does not conform to such rules, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board. For example, representatives must observe rules concerning conflict of interests.

#### NEW SECTION

**WAC 456-10-230 EX PARTE COMMUNICATION.** No one may make or attempt to make any ex parte contact with a member of the board or presiding officer except upon notice and opportunity for all parties to be present or to the extent required for the disposition of ex parte matters as authorized by law. Attempts by anyone to make such prohibited ex parte communications shall subject such person to the sanctions of WAC 456-10-220 and 456-10-555.

### APPEAL PROCEDURE

#### NEW SECTION

**WAC 456-10-310 NOTICE OF APPEAL—FORMS—CONTENTS.** (1) For informal appeals from decisions of a board of equalization or the department of revenue, the appellant may use forms provided by the board.

- (2) In all other cases, a notice of appeal shall substantially contain:
  - (a) A caption in the following form:

**BEFORE THE BOARD OF TAX APPEALS  
STATE OF WASHINGTON**

|             |   |
|-------------|---|
| Appellant,  | Name of county in which property is located (if applicable)<br>Docket No. _____ |
| v.          |   |
| Respondent. | NOTICE OF APPEAL<br>Re: (Type of tax,<br>e.g., excise,<br>property)             |

In all cases the appellant shall be the party appealing to the board. The respondent shall be the government agency or the property owner, as the case may be.

- (b) Numbered paragraphs stating:
  - (i) Appellant's name, mailing address, telephone number, and that of the representative, if any.
  - (ii) The date of the order or determination from which the appeal is taken, together with a copy of the order, decision, or application appealed from.
  - (iii) The nature of the tax, and:
    - (A) In excise tax cases, the amount of the tax in controversy and the period covered thereby;
    - (B) In property tax cases, a legal description or parcel number of the property under appeal, the year for which the valuation has been determined, the full value as determined by the local board of equalization, and a declaration of true and fair value as alleged by the appellant;
    - (C) In property tax exemption cases, a legal description and/or parcel number of the property under appeal, the basis under which exempt status should be granted or denied, and the use of the property; and
    - (D) In pollution control tax exemption and credit certificate cases (chapter 82.34 RCW), the amount to which the credit or exemption should apply, and the grounds for such contention.
  - (iv) A clear, separate, and concise assignment of each error alleged and a short statement of facts upon which the appellant relies to sustain each contention.
  - (v) The relief sought.
  - (c) A statement that the appellant has read the notice and believes the contents to be true, followed by the party's signature and signature of their attorney or qualified representative, if any. The signature of a party, attorney, or qualified representative constitutes a certificate that the pleading has been read and that to the best personal knowledge, information, and belief, there is good ground to support it, and that it

is not interposed for delay. If determined by the board that a pleading is not signed or is signed with the intent to defeat the purpose of this section, it may be stricken and the action may proceed as though the pleading had not been served.

#### NEW SECTION

**WAC 456-10-315 NOTICE OF APPEAL—TIMELINESS OF FILING.** Any appeal to the board pursuant to RCW 82.03.190, 82.03.130, 84.08.130, 84.48.075, 84.36.850, 84.33.091, 84.34.065, 82.34.110, 82.03.130, 79.94.210, 39.88.060, 82.49.060, 84.08.110, or any other applicable statute shall be filed within the time required by the statute governing the respective agency or proceeding involved.

#### NEW SECTION

**WAC 456-10-320 NOTICE OF APPEAL—SERVICE AND FILING.** (1) Except as provided in subsection (2) of this section, notice of appeal shall be filed with the board and a copy served upon all other parties in accordance with the provisions of this chapter and a certificate of service shall be filed with the board pursuant to WAC 456-10-440.

(2)(a) Notice of an appeal authorized under RCW 82.03.130(2) (appeal from action of the board of equalization) shall be filed in duplicate with the appropriate county auditor within thirty days after the mailing of the board of equalization's decision; and the appellant shall serve a copy of the notice on all other named parties.

(b) In King County, notice of appeal shall be filed in duplicate with the clerk of the county council.

(c) The county auditor or clerk shall transmit one copy of the notice of appeal to the board and shall retain the other for its files.

(d) Appeals not properly or timely filed as provided in this section shall be continued or dismissed.

#### NEW SECTION

**WAC 456-10-325 DATE OF FILING—FACSIMILE.** (1) Except as provided in subsection (3) of this section, the date of filing of all papers shall be the date of actual receipt by the board at its Olympia office. The date stamp placed thereon shall be prima facie evidence of the date of receipt.

(2) Except as provided in subsection (3) of this section, all documents may be filed with the board via facsimile machine. However, filing will not be deemed complete unless the following procedures are strictly observed:

(a) A facsimile document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated on the facsimile shall be prima facie evidence of the date and time of receipt of transmission.

(b) The original document must be filed with the board within ten days from the date of transmission.

(c) A receipt from the sending station must be filed with the original document showing:

- (i) The date of transmission;
- (ii) The time of transmission; and
- (iii) The facsimile identification number of the board.

(d) All transmissions are sent at the risk of the sender.

(3) In appeals pursuant to RCW 82.03.130(2) (appeal from board of equalization) the date of filing shall be the date of receipt by the county auditor or, in King County, the clerk of the county council. The date stamp placed on the notice of appeal by the auditor or clerk shall be prima facie evidence of the date of receipt.

#### NEW SECTION

**WAC 456-10-330 ACKNOWLEDGEMENT OF NOTICE OF APPEAL.** Upon written request of an appellant, the board will acknowledge receipt of a notice of appeal indicating the date of filing if the appellant submits a self-addressed stamped envelope with the request.

#### NEW SECTION

**WAC 456-10-335 COMPUTATION OF TIME.** In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the period

so computed is included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

#### NEW SECTION

**WAC 456-10-340 JURISDICTION—ISSUE RAISED BY BOARD—PROCEDURE.** (1) Any party may, by motion, challenge the jurisdiction of the board in any appeal. The board may, upon its own motion, raise such jurisdictional issues.

(2) When the board determines that an appeal has been untimely filed, an order of dismissal will be mailed to all parties. An exception to the order of dismissal may be filed within twenty days after mailing of such order. The original and three copies of the exception shall be filed with the board and a copy served upon all other parties.

#### NEW SECTION

**WAC 456-10-345 AMENDMENTS TO NOTICE OF APPEAL.** Except as provided in WAC 456-10-505 a notice of appeal may be amended as a matter of right until thirty days after filing have elapsed.

Thereafter any amendments can only be made after approval of the board. Amendments shall be freely granted and may be denied only upon a showing by the adverse party of unreasonable and unavoidable hardship. The board may, upon motion of a party or upon its own motion, require a more complete statement of the nature of the claim or defense or any matter stated in any pleading.

#### NEW SECTION

**WAC 456-10-350 NOTICE OF APPEAL—ANSWER.** The respondent may file an answer with the board. If filed, the respondent shall file the original with the board and serve a copy thereof on the appellant within thirty days after the service of notice of appeal or any amendment thereto.

#### NEW SECTION

**WAC 456-10-355 PARTIES IN EXEMPTION APPEALS.** When an appeal is filed with the board under RCW 84.36.850, appealing from an exemption ruling by the department of revenue, the department of revenue will be designated as the respondent. The department of revenue, the property owner, and the assessor may all be parties to the appeal and shall be entitled to all the rights of a party. The person filing the appeal will be designated as the appellant, and the nonappealing party will also be designated as a respondent.

#### NEW SECTION

**WAC 456-10-360 CHOICE OF HEARING—CONVERSION.** (1) In all appeals over which the board has jurisdiction, a party taking an appeal may elect, with its notice of appeal, either a formal or informal hearing pursuant to RCW 82.03.140.

(2) The assessor or taxpayer, as a party to an appeal pursuant to RCW 84.08.130 (appeal from the board of equalization) may, within twenty days from the date of receipt of the notice of appeal, file with the clerk of the board a notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act.

(3) In appeals under RCW 82.03.190 and 82.03.130(5), except as otherwise provided in this subsection and subsection (2) of this section, the department of revenue may, within ten days of receipt of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act.

(4) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

#### SERVICE OF PAPERS

#### NEW SECTION

**WAC 456-10-410 SERVICE OF PAPERS.** (1) Copies of all documents, exhibits, and papers filed with the board shall be served upon all counsel or representatives of record and upon parties not represented.

(2) Such service upon the representative shall be considered valid service for all purposes upon the party represented.

(3) Decisions or orders of the board shall be served upon both the party and their counsel or representative of record, if any.

**NEW SECTION**

**WAC 456-10-420 METHOD OF SERVICE.** Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail, by telegraph, or by facsimile.

**NEW SECTION**

**WAC 456-10-430 SERVICE OF PAPERS—WHEN COMPLETE.** (1) Except as provided in subsection (2) of this section, service by mail shall be regarded as complete upon deposit in the United States mail properly stamped and addressed, or by telegraph when deposited with a telegraph company properly addressed with the charges prepaid. Service by facsimile shall be deemed complete only when the following procedure is observed:

- (a) The original document must be filed with the board within ten days from the date of transmission.
- (b) A receipt from the sending station must be filed with the original document showing:
  - (i) The date of transmission;
  - (ii) The time of transmission; and
  - (iii) The facsimile identification number of the receiving station.
- (c) All transmissions are sent at the risk of the sender.
- (2) This section shall not extend any applicable time for appeal to the board nor extend the time for providing notice of appeal to any named party.

**NEW SECTION**

**WAC 456-10-440 PROOF OF SERVICE—CERTIFICATE.** Where proof of service is required by this chapter, by statute, or upon the board's request, filing a copy of the papers with the board together with either an acknowledgment of service or a certificate substantially as follows, shall constitute proof of service:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy thereof in person to (names) or by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or their attorney or authorized agent.

DATED at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

\_\_\_\_\_  
(signature)

Certification of proof of service may also be made on forms provided by the board.

**HEARING PROCEDURE****NEW SECTION**

**WAC 456-10-505 ADVANCE SUBMISSION OF EVIDENCE—DELIVERY TO ADVERSE PARTY.** (1) Copies of all documentary evidence which are to be introduced at hearing shall be submitted to the board in advance. The department of revenue, department of natural resources, or the assessor shall submit such evidence at least ten business days prior to hearing. The taxpayer or other party shall submit such evidence at least five business days prior to hearing. Failure to comply may be grounds for exclusion of such evidence or dismissal in accordance with WAC 456-10-555.

(2) Evidence of comparable sales listed in the notice of appeal which are subsequently amended, shall conform to this section and may be excepted from the requirements of WAC 456-10-345 (Amendments of notice of appeal).

(3) All correspondence and all subsequent pleadings or papers filed with the board shall indicate that copies have been mailed or delivered to the attorney or representative of record or the adverse party if not represented.

(4) An acknowledgement of service or certificate of mailing as provided in WAC 456-10-440 shall be filed with the board together with the advance submission of documentary evidence as required in subsection (1) of this section.

**NEW SECTION**

**WAC 456-10-510 HEARING—SETTING OF TIME AND PLACE.** (1) The board will generally not schedule a hearing until the filing of a response or, in the absence thereof, thirty days after filing of the notice of appeal.

(2) The board will set a time and place for hearing. The parties shall, upon request of the board, submit written estimates of the time that will be required to hear the matter.

**NEW SECTION**

**WAC 456-10-515 CONTINUANCE—EXTENSIONS OF TIME.** (1) Continuances and extensions of time may be ordered on timely request of any party. The request shall show good cause and shall be served upon all other parties.

(2) This section shall not extend any applicable time for appeal to this board nor extend the time for providing notice of appeal to any named party.

**NEW SECTION**

**WAC 456-10-520 TELECONFERENCE PROCEEDING.** (1) At the discretion of the board, and where the rights of the parties will not be prejudiced thereby, all or part of the hearing may be conducted by telephone, television, or other electronic means. Each party in the proceeding must have an opportunity to participate effectively in, to hear, and if technically and economically feasible, to see the entire proceeding while it is taking place.

(2) The board may require documentary evidence to be submitted sufficiently in advance of the proceeding.

**NEW SECTION**

**WAC 456-10-525 BRIEFS.** The original and four copies of briefs shall be filed with the board at least five business days prior to hearing unless otherwise provided by the board. When briefs are filed, a copy shall also be served on the other parties. The board may permit or require the filing of additional briefs.

**NEW SECTION**

**WAC 456-10-530 HEARING—NOTICE OF HEARING—TIME—CONTENTS.** (1) Time. Notice of a hearing shall be mailed to all parties not less than twenty days before the hearing date. The twenty-day notice provision may be waived by agreement of all parties.

(2) Contents. The notice shall contain:

- (a) The names and mailing addresses of the parties and their representatives, if any;
- (b) The docket number and name of the proceeding;
- (c) The name, official title, mailing address, and telephone number of the presiding officer, if known;
- (d) A statement of the time, place, date, and general nature of the proceeding (e.g., excise, property, etc.);
- (e) A statement that the hearing is held pursuant to this chapter and chapter 82.03 RCW;
- (f) A statement of the issues or matters asserted and the particular sections of the statutes or rules involved as stated in the notice of appeal and responsive pleading, if any;
- (g) A statement that if a qualified interpreter is needed, one will be appointed at no cost to the party or witness upon five days written notice; and
- (h) A statement that a party who fails to attend or participate at a hearing may be held in default in accordance with WAC 456-10-550.

**NEW SECTION**

**WAC 456-10-535 HEARING—STANDARD AND SCOPE OF REVIEW.** (1) The board will apply the specific criteria provided by law in making its decision on each case.

(2) Hearings shall be quasi-judicial in nature and shall be conducted de novo unless otherwise provided by law.

(3) All pleadings shall be liberally construed with the view of substantial justice between the parties. The board may disregard any error or defect in the pleadings or proceedings which does not affect the substantial rights of the adverse party.

**NEW SECTION**

**WAC 456-10-540 HEARING—PROCEDURE.** Unless otherwise ordered by the board, hearings will be conducted in accordance with the following format:

- (1) Administering of oath;
- (2) Appellant's opening statement;
- (3) Respondent's opening statement;
- (4) Appellant's case in chief:
  - (a) Direct examination of witness;
  - (b) Cross-examination by respondent;
  - (c) Questions by board or presiding officer;
  - (d) Redirect examination by appellant;
  - (e) Recross examination;
- (f) The above procedure is followed for each witness.
- (5) Respondent's case in chief:
  - (a) Direct examination of witness;
  - (b) Cross-examination by appellant;
  - (c) Questions by board or presiding officer;
  - (d) Redirect examination by respondent;
  - (e) Recross examination;
- (f) The above procedure is followed for each witness.
- (6) Appellant's closing argument;
- (7) Respondent's closing argument;
- (8) Appellant's closing rebuttal.

**NEW SECTION**

**WAC 456-10-545 TESTIMONY UNDER OATH.** All testimony to be considered by the board shall be sworn, and each person shall swear or affirm that the testimony to be given shall be the truth, the whole truth, and nothing but the truth.

**NEW SECTION**

**WAC 456-10-550 FAILURE TO ATTEND—DEFAULT OR DISMISSAL—SETTING ASIDE.** (1) When a party to these proceedings has, after notice, failed to attend a hearing, a motion for default or dismissal may be sought by any party to the proceedings, or raised by the board upon its own motion. Any such order shall include a statement of the grounds for the order and shall be served upon all parties to the proceeding.

(2) Within ten days after service of the default order or dismissal under subsection (1) of this section, the party against whom the order was entered may file a written objection requesting that the order be vacated and stating the specific grounds relied upon. The board may, for good cause, set aside an entry of dismissal, default, or final order.

**NEW SECTION**

**WAC 456-10-555 DISMISSAL OF ACTIONS.** Any action may be dismissed by the board:

- (1) When all parties so stipulate;
- (2) Upon motion of the appellant prior to the presentation of the respondent's case;
- (3) Upon motion by the respondent alleging that the appellant has failed to prosecute the case, failed to comply with this chapter, or failed to follow any order of the board; or
- (4) Upon the board's own motion for failure by the parties to comply with applicable rules or any order of the board.

**NEW SECTION**

**WAC 456-10-560 WAIVER OF PARTIES' APPEARANCE.** Upon stipulation by both parties that no facts are at issue, an appeal may be submitted to the board with or without oral argument. However, the board in its discretion may require appearance for argument.

**NEW SECTION**

**WAC 456-10-565 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA.** (1) All relevant evidence, including hearsay evidence, is admissible if, in the opinion of the board, the offered evidence is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The board shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The board may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(2) The board's experience, technical knowledge, competency, and specialized knowledge may be used in evaluation of evidence.

(3) Documentary evidence may be submitted in the form of copies or excerpts.

**NEW SECTION**

**WAC 456-10-570 MOTIONS—APPLICATION—REQUIREMENTS.** (1) Any application for an order or ruling is a motion. Every motion, unless made during hearing, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(2) All motions shall be properly captioned and signed by the party or their attorney.

(3) The board will deny or dismiss any motion unless the moving party, before motion, has made a good faith effort to confer with the other parties concerning the issues in dispute. The moving party shall include in the motion a statement of compliance with this subsection.

(4) A response to the motion shall be filed within ten days after the date of service.

(5) In the motion and response, the parties shall specify the amount of time required for argument, whether appearance by telecommunication is requested, the names and telephone numbers of all parties served with the motion or response, and whether court reporting services are requested.

**DISPOSITION OF CASES****NEW SECTION**

**WAC 456-10-710 ASSISTANCE TO BOARD.** The board may obtain assistance concerning the appeal of any case within the scope of RCW 82.03.130(2) from the staff of the department of revenue as provided by RCW 82.03.150. The board will notify the parties of its intent to seek such assistance and the matters sought to be investigated before contacting the department of revenue. Parties may recommend an alternative to the board to achieve the same objectives without contacting the department of revenue. If the department of revenue supplies the requested assistance, the parties will be apprised of any information provided by the department of revenue and will be given an opportunity to respond.

**NEW SECTION**

**WAC 456-10-715 PRESENTATION OF POSTHEARING EVIDENCE.** Unless requested by the board, no posthearing evidence will be accepted unless such evidence could not reasonably have been anticipated or discovered prior to hearing.

**NEW SECTION**

**WAC 456-10-720 PROPOSED FINDINGS AND CONCLUSIONS—SUBMISSION.** At the discretion of the board, parties may file proposed findings of fact and conclusions of law. Proposed findings of fact and conclusions of law shall be filed within the time period set by the board.

**NEW SECTION**

**WAC 456-10-725 PROPOSED DECISION.** A proposed decision shall be prepared when:

- (1) An appeal has been heard by only one member of the board;
- (2) An appeal has been heard by only two members of the board and the two members cannot agree on a conclusion;
- (3) An appeal has been heard by a hearing officer; or
- (4) The board shall otherwise elect to do so.

**NEW SECTION**

**WAC 456-10-730 EXCEPTIONS TO PROPOSED DECISION.**

(1) Time for filing. Any party may file a written exception with the board within twenty days from the date of mailing of the proposed decision or, upon timely application, within such further time as the board may allow. An original and four copies shall be filed with the board, and a copy shall be served on all other parties.

(2) Contents. Exceptions shall contain the specific factual and legal grounds upon which the exception is based. The party or parties filing

the exception shall be deemed to have waived all objections or irregularities not specifically set forth. The statement of exceptions may contain the exceptor's proposed findings of fact and/or conclusions of law addressing the factual and legal issues to which exceptions are being taken.

(3) Failure of a party to comply with the requirements for exceptions may result in the board issuing an order adopting the proposed decision as the final decision of the board on the ground that no legally sufficient statement of exceptions had been filed.

#### NEW SECTION

**WAC 456-10-735 REPLY TO EXCEPTIONS.** Any party may, within ten days or such further time as the board may allow, submit a reply to exceptions or a written brief or statement of position regarding the matters on which exceptions were taken. The board may require the parties to submit written briefs or statements of position or to appear and present oral argument regarding the matters on which exceptions were taken, within such time and on such terms as may be prescribed.

#### NEW SECTION

**WAC 456-10-740 FINALITY OF PROPOSED DECISION.** If exceptions are not filed, the proposed decision shall become the board's final decision.

#### NEW SECTION

**WAC 456-10-745 FINAL DECISION FOLLOWING PROPOSED DECISION.** After the filing of exceptions and any responses, the record before the board shall be considered by at least two members of the board.

#### NEW SECTION

**WAC 456-10-750 FINAL DECISION.** When an appeal has been heard or the record considered by a majority of the board, a final decision may be adopted which shall contain findings and conclusions as to each contested issue of fact and law.

#### NEW SECTION

**WAC 456-10-755 PETITION FOR RECONSIDERATION.** After a final decision has been issued, any party may file a petition for reconsideration with the board. Such petition must be filed within ten days from the mailing of the final decision. The original and four copies of the petition for reconsideration shall be filed with the board and served upon all parties and representatives of record. The board may require that an answer be filed and served in the same manner. The filing of a petition for reconsideration shall suspend the final decision until action by the board. The board may deny the petition, modify its decision, or reopen the hearing. A petition for reconsideration is not available where a proposed decision was first issued.

SEPA

#### NEW SECTION

**WAC 456-10-970 APPLICABILITY OF SEPA GUIDELINES.** The board has reviewed its authorized activities pursuant to WAC 197-11-800(12) and has found them all to be exempt from the provisions of chapter 197-11 WAC.

### WSR 89-06-065 PROPOSED RULES BOARD OF TAX APPEALS

[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Tax Appeals intends to adopt, amend, or repeal rules concerning the organization, operations and rules for conducting hearings, and procedures for public disclosure requests;

that the agency will at 10:00 a.m., Friday, April 7, 1989, in the Board of Tax Appeals Office, 910 5th Avenue S.E., Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 82.03.170 and 42.17.250.

The specific statute these rules are intended to implement is RCW 42.17.250 through 42.17.320.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 4, 1989.

Dated: March 1, 1989

By: David Akana  
Executive Director

#### STATEMENT OF PURPOSE

Title: Chapter 456-12 WAC.

Description of Purpose: Adoption of rules describing the organization, operation, and rules for conducting hearings and procedures for public disclosure.

Statutory Authority: RCW 82.03.170 and 42.17.250.

Specific Statute Rule is Intended to Implement: RCW 42.17.250 through 42.17.320.

Summary of Rule: The rule sets forth the description and administration of the board, and references the rules for practice before the board and the procedures for obtaining public documents.

Reasons Supporting Proposed Action: To provide rules on public disclosure for the board.

Personnel Responsible for Drafting, Implementation and Enforcement: David Akana, 910 Fifth Avenue S.E., Olympia, WA 98504-2712, (206) 753-5446.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Board of Tax Appeals, state agency.

Agency Comments or Recommendations, Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Action: No.

Small Business Economic Impact Statement: No impact is anticipated. The rules are strictly procedural.

#### Chapter 456-12 WAC PUBLIC RECORDS

##### WAC

|            |   |
|------------|---|
| 456-12-010 | Purpose.  |
| 456-12-020 | Definitions.                                    |
| 456-12-030 | Description of organization and public meeting. |
| 456-12-040 | Public records available.                       |
| 456-12-050 | Communications with the board.                  |
| 456-12-060 | Public records officer.                         |
| 456-12-070 | Office hours.                                   |
| 456-12-080 | Requests for public records.                    |
| 456-12-090 | Copying.  |
| 456-12-100 | Exemptions.                                     |
| 456-12-110 | Review of denials of public records requests.   |
| 456-12-120 | Protection of public records.                   |
| 456-12-130 | Records index.                                  |
| 456-12-140 | Adoption of form.                               |

**NEW SECTION**

**WAC 456-12-010 PURPOSE.** The purpose of this chapter shall be to ensure compliance by the board of tax appeals with the provisions of chapter 42.17 RCW, and in particular with RCW 42.17.250 through 42.17.340, dealing with public records.

**NEW SECTION**

**WAC 456-12-020 DEFINITIONS.** (1) **Public records.** "Public record" includes any writing containing information relating to the performance of any governmental or proprietary function which is prepared, owned, used or retained by the board of tax appeals regardless of physical form or characteristics.

(2) **Writing.** "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) **Board of tax appeals.** The board of tax appeals (hereinafter "board") is a quasi-judicial body created pursuant to chapter 82.03 RCW and is hereinafter referred to as the "board." Where appropriate, the term "board" also refers to the staff and employees of the board.

**NEW SECTION**

**WAC 456-12-030 DESCRIPTION OF ORGANIZATION AND PUBLIC MEETING.** (1) The board of tax appeals is an independent agency of the state of Washington, composed of three members appointed by the governor, with the advice and consent of the senate for a term of six years. The members are to be qualified by experience or training in the field of state and local taxation. The board elects a chairman from among its members at least biennially.

(2) The executive director is the board's chief executive officer and is responsible for implementing board directions and for directing the board's staff.

(3) The board holds regular meetings at its office on the second Friday of each month commencing at 10:00 a.m.

**NEW SECTION**

**WAC 456-12-040 PUBLIC RECORDS AVAILABLE.** All public records of the board, as defined in WAC 456-12-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310 and other laws.

**NEW SECTION**

**WAC 456-12-050 COMMUNICATIONS WITH THE BOARD.** All communications with the board, including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules, requests for copies of the board's decisions and other matters, shall be addressed to the board's office as follows: Board of Tax Appeals, 910 5th Avenue S.E., MS: EW-12, Olympia, Washington 98504.

**NEW SECTION**

**WAC 456-12-060 PUBLIC RECORDS OFFICER.** The chief executive officer shall be in charge of the public records. Such person shall be responsible for implementation of these rules and regulations regarding release of public records, and generally insuring compliance with the public records disclosure requirements of chapter 42.17 RCW, and RCW 42.17.250 through 42.17.340.

**NEW SECTION**

**WAC 456-12-070 OFFICE HOURS.** Public records shall be available for inspection and copying during the customary office hours of the board. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

**NEW SECTION**

**WAC 456-12-080 REQUESTS FOR PUBLIC RECORDS.** In accordance with the provisions of chapter 42.17 RCW, that agencies

prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the board which shall be available at its office. The form shall be presented to the board or to any member of the board's staff at the office of the board during customary office hours. The request shall include the following information:

(a) The name of the person requesting the record and the organization represented;

(b) The time of day and calendar date on which the request was made;

(c) A description of the material requested;

(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the board's current index, an appropriate identification of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

**NEW SECTION**

**WAC 456-12-090 COPYING.** No fee shall be charged for the inspection of public records. For printed, typed and written materials, maximum size 8 1/2" x 14", and other writings as defined by WAC 456-12-020(2), the board will charge a reasonable fee for providing copies of public records and for use of the board's copy equipment. The charge is the amount necessary to reimburse the board for its actual costs incident to such copying.

**NEW SECTION**

**WAC 456-12-100 EXEMPTIONS.** (1) The board reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 456-12-110 is exempt under the provisions of RCW 42.17.310.

(2) Pursuant to RCW 42.17.260, the board reserves the right to delete identifying details when it makes available or publishes any public records, in all cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The board will fully justify such deletion in writing.

(3) All public records otherwise exempt by law shall be considered exempt under the provision of these rules.

(4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denials, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

**NEW SECTION**

**WAC 456-12-110 REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS.** (1) Any person who objects to denials of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the staff member denying the request shall refer it to the public records officer. The public records officer shall immediately consider the matter and, if appropriate, call a special meeting of the board as soon as possible to review the denial. In any case, the request shall be returned with a final written decision of the board within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the board or its acting member shall have returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

(4) With regard to review of denial or requests hereunder, the provisions of WAC 456-08-020(2).

**NEW SECTION**

**WAC 456-12-120 PROTECTION OF PUBLIC RECORDS.** In order to protect the public records in the custody of the board, the following guidelines shall be followed by any person inspecting such public records:

- (1) No public records shall be removed from the office;
- (2) Inspection of any public record shall be conducted in the presence of a designated employee;
- (3) No public record may be marked or defaced in any manner during inspection;
- (4) Public records which are maintained in the file jacket, or in chronological order, may not be dismantled except for purpose of copying, and then only by a designated employee;
- (5) Access to file cabinets, shelves, vaults, etc., is restricted to board employees.

**NEW SECTION**

**WAC 456-12-130 RECORDS INDEX.** (1) Index. The board has available to all persons a current index which shall provide identifying information as to those records applicable to the board, which have been issued, adopted, or promulgated since June 30, 1967, described in RCW 42.17.260(2) as follows:

- "(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- (b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;
- (c) Administrative staff manuals and instructions to staff that affect a member of the public;
- (d) Planning policies and goals, and interim and final planning decisions;
- (e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and
- (f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party."
- (2) Availability. The current index promulgated by the board shall be available for inspection by all persons under the same rules and on the same conditions as are applied to public records available for inspection.

**NEW SECTION**

**WAC 456-12-140 ADOPTION OF FORM.** The board hereby adopts the use by all persons requesting inspection and/or copies of records the form set out below, entitled "Request for Public Records":

We have received your request for copies of our public records. Please complete the form and return it with the amount required. We will forward the requested copies to you as soon as we receive this form.

Thank you.

Return to:

Board of Tax Appeals  
910 5th Avenue S.E.  
MS: EW-12  
Olympia, Washington 98504

**BOARD OF TAX APPEALS****Request For Public Records**

Date \_\_\_\_\_ Time \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_

Description of Records (see index):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that the information obtained through this request for public records will be used in compliance with chapter 42.17 RCW

\_\_\_\_\_  
Signature

Number of Copies \_\_\_\_\_  
Number of Pages \_\_\_\_\_  
Per Page Charge \$ \_\_\_\_\_  
Total Charge \$ \_\_\_\_\_

**WSR 89-06-066  
PROPOSED RULES  
DEPARTMENT OF LICENSING  
(Board of Optometry)  
[Filed March 1, 1989]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Optometry intends to adopt, amend, or repeal rules concerning AIDS prevention and information education requirements, new section WAC 308-53-400;

that the agency will at 1:30 p.m., Thursday, April 6, 1989, in the West Coast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is section 604, chapter 206, Laws of 1988.

The specific statute these rules are intended to implement is section 604, chapter 206, Laws of 1988.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., April 4, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-01-086 filed with the code reviser's office on December 21, 1988.

Dated: February 10, 1989  
By: Cynthia J. Jones  
Program Manager

**WSR 89-06-067****PROPOSED RULES**

**DEPARTMENT OF LICENSING**  
**(Board of Registration for Architects)**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Registration for Architects intends to adopt, amend, or repeal rules concerning appeal of examinations, amending WAC 308-12-040;

that the agency will at 10:00 a.m., Friday, May 12, 1989, in the Ramada Inn at Spokane International Airport, Spokane, WA 99219, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.08.340.

The specific statute these rules are intended to implement is RCW 18.08.360.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1989.

Dated: February 22, 1989  
By: Sydney W. Beckett  
Executive Secretary

**STATEMENT OF PURPOSE**

Name of Agency: State of Washington Board of Registration for Architects.

Purpose and Summary of Rules: WAC 308-12-040 is amended to rescind the appeal procedures for Division C building design portion of the architect registration examination.

Statutory Authority: RCW 18.08.340 and 18.08.360.

Reasons Proposed: To conform to the grading procedures of the National Council of Architectural Registration Boards. The amendment rescinds the appeal provisions for Division C, building design, of the architect registration examination. Applicants for registration who fail Division C will no longer have the opportunity to request that the board regrade the test to confirm or overturn the original failing score.

Responsible Personnel: Members of the board who have knowledge of and responsibility for drafting, implementing and enforcing these rules are the members of the board who include: Edward L. Cushman, Vaughn L. Lein, Larry N. Erickson, Roger Rue, George H. Nachtsheim, Norman J. Johnston and Linda L. McMonagle. In addition to the above-mentioned board members, the following personnel of the Department of Licensing have responsibility for implementing and enforcing these rules: Sydney W. Beckett, Executive Secretary and James Hanson, Assistant Executive Secretary of the Board, P.O. Box 9012, Olympia, Washington 98504, phone (206) 753-6967 and 234-6967 scan.

Proponents: The Washington State Registration Board of Architects.

Small Business Economic Impact Statement: Not required and has not been filed since these rules do not

impact small business as that term is defined by RCW 43.31.920.

**AMENDATORY SECTION** (Amending Order PL 517, filed 2/11/85)

WAC 308-12-040 APPEAL OF EXAMINATIONS. ((Only Division C, building design is subject to appeal to the board and only if it is the remaining subject not passed in the written examination. Any candidate requesting appeal must apply within thirty days after date of release of grades.)) The board adopts the grading procedures as set forth in the current Circular of Information Number 2, of the National Council of Architectural Registration Boards. No appeal of failing scores will be accepted by the department or the board after the conclusion of the national grading session.

**WSR 89-06-068****PROPOSED RULES**

**DEPARTMENT OF LICENSING**  
**(Dental Disciplinary Board)**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Dental Disciplinary Board intends to adopt, amend, or repeal rules concerning AIDS prevention and information education requirements, new section WAC 308-40-140;

that the agency will at 9:00 a.m., Friday, April 14, 1989, in the Ramada Inn at Sea-Tac, Salon C, 18118 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is section 604, chapter 206, Laws of 1988.

The specific statute these rules are intended to implement is section 604, chapter 206, Laws of 1988.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1989.

Dated: February 27, 1989  
By: Amanda L. Tomlinson  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Dental Disciplinary Board.

Title: WAC 308-40-140 AIDS prevention and information education requirements.

Description of Purpose: To adopt a new rule outlining AIDS education requirements.

Statutory Authority: Section 604, chapter 206, Laws of 1988.

Summary of Rule: WAC 308-40-140 is a new rule outlining AIDS education requirements for dentists.

Responsible Personnel: The Washington State Dental Disciplinary Board and the executive secretary for the board have the responsibility for drafting, implementing and enforcing these rules. The executive secretary is Judy Mayo, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-2461 comm, 234-3576 scan.

**Proponents:** The Washington State Dental Disciplinary Board.

**Federal Law or Federal or State Court Requirements:** Not necessitated as a result of federal or state court action.

**Small Business Economic Impact Statement:** Not required and not provided in that these rules do not impact small businesses as that term is defined in RCW 19.85.020.

#### NEW SECTION

##### **WAC 308-40-140 AIDS PREVENTION AND INFORMATION EDUCATION REQUIREMENTS. (1) Definitions.**

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the Department of Social and Health Services or any successor department with jurisdiction over public health matters as defined in 70.24 RCW.

##### (2) Implementation.

(a) Renewal of License. Effective with the renewal period beginning July 1, 1989 and ending June 30, 1990, all persons making application for licensure renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (3).

(b) Reinstate of licenses. Effective July 1, 1989 and ending June 30, 1990, all persons making application for reinstatement of a license on lapsed or disciplinary status shall show evidence of compliance with the education requirements of subsection (3).

(c) Licenses on disciplinary status. Effective July 1, 1989 and ending June 30, 1990, all persons whose license is currently suspended or revoked shall submit evidence to show compliance with the education requirements of subsection (3).

##### (3) AIDS education and training.

(a) Acceptable education and training. The board will accept formal lecture-type education and training that is consistent with the topical outline available from the Office on AIDS. Such education and training shall be a minimum of seven clock hours. As an alternative to formal lectures, the Board will also accept education and training obtained through videos and/or self-study materials, PROVIDED THAT such videos and/or self-study materials must include a written examination that is graded by the provider of the materials.

All education and training shall include the subjects of prevention, transmission and treatment of AIDS, and information on the Washington State AIDS Omnibus Bill, and may include the following: etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues including confidentiality; and psychosocial issues to include special population considerations.

##### (b) Documentation. The licensee shall:

(i) Certify, on forms provided, that the minimum education has been completed after January 1, 1986;

(ii) Keep records for two years documenting attendance or description of the learning and any examination scores and/or copy of the examination; PROVIDED THAT persons whose license is on lapsed or disciplinary status must keep such records for two years following reinstatement of the license;

(iii) Be prepared to validate, through submission of these records, that attendance or learning has taken place or that an examination was taken.

#### **WSR 89-06-069 PROPOSED RULES DEPARTMENT OF LICENSING (Board of Physical Therapy) [Filed March 1, 1989]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Physical Therapy intends to adopt, amend, or

repeal rules concerning the definition of physical therapy, in particular, WAC 308-42-010(9) definition of spinal manipulation or manipulative mobilization;

that the agency will at 9:00 a.m., Tuesday, July 25, 1989, in the Seattle Airport Hilton, Columbia East Room, 17620 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.74.023(3).

The specific statute these rules are intended to implement is SSB 6218 codified as amending RCW 18.74.010(4).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1989.

Dated: February 21, 1989

By: Linda M. Moran

Assistant Attorney General

#### **STATEMENT OF PURPOSE**

Name of Agency: Washington State Board of Physical Therapy.

Purpose: To further define the practice of physical therapy.

Statutory Authority: RCW 18.74.023(3).

Summary of the Proposed Rules: WAC 308-42-010(9) Definition of spinal manipulation or manipulative mobilization.

Responsible Departmental Personnel: In addition to the director of the Department of Licensing, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing, enforcing and repealing these rules: Yvonne Braeme, Program Manager, Professional Programs Management Division, Department of Licensing, P.O. Box 9012, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-3095 comm or 234-3095 scan.

Proponents of the Proposed Rule: The state of Washington Board of Physical Therapy.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal law or of federal or state court action.

Small Business Impact Statement: Not required for this statement.

#### **AMENDATORY SECTION (Amending Order PL 471 [PM 789], filed 6/19/84 [11/7/88])**

**WAC 308-42-010 DEFINITIONS.** For the purposes of administering chapter 18.74 RCW, the following terms are to be construed as set forth herein:

(1) The "performance of tests of neuromuscular function" includes the performance of electromyographic examinations.

(2) "Consultation" means a communication regarding a patient's evaluation and proposed treatment plan with an authorized health care practitioner.

(3) "Supervisor" shall mean the licensed physical therapist.

(4) "Physical therapist assistant" shall mean an individual who shall have received an associate degree as a physical therapist assistant from an approved school, or a graduate of an approved school of physical therapy who has not been licensed to practice physical therapy in Washington state.

(5) "Physical therapist aide" shall mean an individual who shall have received on-the-job training from a physical therapist.

(6) "Immediate supervision" shall mean the supervisor is in audible or visual range of the patient and the person treating the patient.

(7) "Direct supervision" shall mean the supervisor is on the premises, is quickly and easily available and the patient has been examined by the physical therapist at such time as acceptable physical therapy practice requires, consistent with the delegated health care task.

(8) "Indirect supervision" shall mean the supervisor is not on the premises, but has given either written or oral instructions for treatment of the patient and the patient has been examined by the physical therapist at such time as acceptable health care practice requires, and consistent with the particular delegated health care task.

(9) "Spinal manipulation" or "manipulative mobilization" are defined as movement beyond the normal physiological range of motion with a thrusting force.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 89-06-070**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Board of Optometry)**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Optometry intends to adopt, amend, or repeal rules concerning revising rules regarding required continuing education:

|     |                |   |
|-----|----------------|---|
| Amd | WAC 308-53-120 | Courses.  |
| Amd | WAC 308-53-125 | Postgraduate educational program.   |
| Amd | WAC 308-53-135 | Credit for admission to optometric organizations and participation in patient care reviews. |
| Amd | WAC 308-53-145 | Credit for reports.   |
| Amd | WAC 308-53-146 | Credit for preprogrammed educational materials.   |
| Amd | WAC 308-53-150 | Credit for lecturing.   |
| Amd | WAC 308-53-151 | Credit for CPR training.  |
| Amd | WAC 308-53-165 | Certification for continuing education courses.   |
| Amd | WAC 308-53-170 | Surplus credit hours.   |
| New | WAC 308-53-175 | Credits for practice management.  |
| Amd | WAC 308-53-180 | Discretionary exception for emergency situation.  |
| Rep | WAC 308-53-130 | Courses not presumed to qualify.  |
| New | WAC 308-53-123 | Credit for classes;   |

that the agency will at 1:45 p.m., Thursday, April 6, 1989, in the Tacoma Room, West Coast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.54.070(2).

The specific statute these rules are intended to implement is RCW 18.54.070(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5 p.m., April 4, 1989.

Dated: February 10, 1989  
By: Cynthia J. Jones  
Program Manager

## STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Optometry.

Purpose and Summary: To revise and update the continuing education requirements for licensed optometrists.

Statutory Authority: RCW 18.54.070(2).

Responsible Personnel: The Washington State Board of Optometry and the program manager for the board have the responsibility for drafting, implementing and enforcing these rules. The program manager is Cynthia Jones, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-2494 comm, 234-2494 scan.

Proponents: The Washington State Board of Optometry.

Federal Law or Federal or State Court Requirements: Not necessitated as a result of federal or state court action.

Small Business Economic Impact Statement: Not required and not provided in that these rules do not impact small businesses as that term is defined in RCW 19.85.020.

**AMENDATORY SECTION** (Amending Order PL 465 [PM 710], filed 4/18/84 [3/11/88])

**WAC 308-53-120 COURSES ((PRESUMED TO QUALIFY))**  
**QUALIFYING FOR CREDIT.** Courses offered by the organizations listed in this section will ((be presumed to)) qualify as continuing education courses without specific prior approval of the board((~~the board reserves the authority to refuse to accept credits in any course if the board determines that the course did not provide information or training sufficient in amount or relevancy~~)). The board shall review the courses offered by approved organizations on a yearly basis to determine whether those organizations shall retain approval. Approved organizations for the purposes of this section ((shall)) include:

(1) The American Optometric Association.  
(2) Any college or school of optometry whose scholastic standards are deemed sufficient by the board under RCW 18.53.060(2).

(3) The Washington Optometric Association and its affiliated societies.

(4) Any state optometric association which is recognized by the licensing authority of its state as a qualified professional association or educational organization.

(5) The state optometry board.

(6) The optometry licensing authority of any other state.

(7) The American Academy of Optometry.

(8) The Optometric Extension Program.

(9) The College of Optometrists and Visual Development.

(10) The National Eye Research Foundation.

(11) Regional congresses of any of the organizations listed in subsections (1) through (10) of this section.

((12) The Commission on Continuing Optometric Education of the American Optometric Association, category one courses:))

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

## NEW SECTION

**WAC 308-53-123 CREDIT FOR CLASSES.** Continuing education credit may be granted for courses sponsored by schools and professional organizations. The board will individually consider granting or denying credit for any course other than those offered by organizations approved in WAC 308-53-120.

(1) Requests for credit must be submitted at least thirty days prior to the date of the course. The request must include, as a minimum, an agenda, an outline of each offering, and a brief professional biography of each presenter. Within sixty days the board will notify the sponsor

of its approval or denial of continuing education credits and the number of credits approved. If the board does not act on the continuing education credit request within sixty days after receipt, the request shall be approved as submitted.

(2) Any requests received after the thirty-day submission deadline will be considered by the board as soon as possible.

(3) In determining whether a course will be granted credit, the board may consider, among other factors: The relevancy of the course to the usual and customary practice of optometry, the correlation of the course to subjects taught in accredited colleges or schools of optometry, the speaker(s) being properly credentialed in the subject area, and the relationship to new concepts and techniques: PROVIDED, HOWEVER, Courses related to a single product or device will not normally be granted credit.

#### AMENDATORY SECTION (Amending Order PL 326, filed 12/28/79)

WAC 308-53-125 POST-GRADUATE EDUCATIONAL PROGRAM. The board or its agent will ((be responsible)), when financially ((permissible, to exercise control through the board, or its agent, of)) possible, provide an annual post-graduate educational program.

#### AMENDATORY SECTION (Amending Order PL 326, filed 12/28/79)

WAC 308-53-135 CREDIT FOR ADMISSION TO OPTOMETRIC ORGANIZATIONS AND PARTICIPATION IN PATIENT CARE REVIEWS. (1) Continuing education credit ((may)) will be granted for preparation and admission to optometric scientific groups (for example, the Academy of Optometry). The licensee must petition the board for credit thirty days prior to the end of the reporting period and no more than five credit hours will be approved for any licensee in any reporting period.

(2) Continuing education credit ((may)) will be granted for participation in formal reviews and evaluations of patient care such as peer review and case conference. Also, participation in a professional standard review organization, ((health systems agency)) regional health planning council, health planning board, state health coordinating council and state health planning department, and ((subarea councils of HSA and HEW)) local/county councils of state health planning council/organizations, as authorized by the state and the United States government, and other official representation (and not mere attendance as an observer) relating to health care agencies may be granted continuing education credit by submitting an outline of the particular activity thirty days prior to the end of the reporting period. No more than five credit hours will be approved for any licensee in any two-year reporting period.

#### AMENDATORY SECTION (Amending Order PL 331 [PM 710], filed 3/21/80 [3/11/88])

WAC 308-53-145 CREDIT FOR REPORTS. Continuing education credit ((may)) will be given for reports on professional optometric literature. Requests for credit must be submitted to the department of licensing, professional licensing division in Olympia, at least thirty days prior to the end of the reporting period. The request should include a copy of the article being reported on, and the typewritten report. Such report shall list ten basic statements from an article(s) or sequence of articles ((for each hour of credit)). Such report shall be submitted typewritten to the department of licensing, professional licensing division in Olympia)). Professional literature approved for such reports are: American Journal of Optometry and Physiological Optics, American Optometric Association News, Contact Lens Forum, Contact, ((Insight)) International Contact Lens Clinic, Journal of American Optometric Association, Journal on Optometric Education, Journal of Optometric Vision Development, OEP Monthly, Optometric Management, ((Optometric Monthly,)) Optometric World, Review of Optometry, and 20/20 Magazine. Other professional literature may be submitted in advance for the board's consideration and approval. ((Literature utilized shall not be issuance dated over two years on the date of submission of the report for credit.)) Reports shall list the title of the article(s), literature that the article(s) was taken from, the date of issuance/publication of the literature, page(s) utilized, and author(s). ((A copy of the article utilized shall be submitted whenever possible.))

Each report qualifies for one credit hour and may only be used for credit once. The ((combined)) maximum continuing education credit that ((may)) will be granted under this section ((and WAC 308-53-146)) is ((twenty percent for every)) ten credit hours for each two-year ((requirement)) reporting period.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

#### AMENDATORY SECTION (Amending Order PL 331, filed 3/21/80)

WAC 308-53-146 CREDIT FOR PREPROGRAMMED EDUCATIONAL MATERIALS. Continuing education credit ((may)) will be granted for observation and participation in the use of formal preprogrammed optometric educational materials, including the use of cassettes, videodiscs, videotapes, teaching machines, etc. ((Preprogrammed educational materials utilized shall not be issuance dated over two years on the date of submission of the preprogrammed educational material for credit. The doctor of optometry shall list)) Requests for credit must be submitted to the department of licensing, professional licensing division in Olympia, at least thirty days prior to the end of the reporting period. The request should include the title of the preprogrammed educational material, ((the)) its date of issuance ((of the preprogrammed educational material, the)), its author/provider, and the length of time spent viewing/listening to the preprogrammed educational material. A synopsis of the preprogrammed educational material ((utilized)) shall be submitted.

The ((combined)) maximum continuing education credit that ((may)) will be granted under this section ((and WAC 308-53-145)) is ((twenty percent for every)) ten credit hours for each two-year ((requirement)) reporting period.

#### AMENDATORY SECTION (Amending Order PL 239, filed 3/3/76)

WAC 308-53-150 CREDIT FOR LECTURING. Continuing education credit ((may)) will be given for the preparation and presentation of courses and lectures in optometric education, if attendance at such a course or lecture would also qualify for such credit. For each hour of credit for the initial presentation of such a course or lecture, ((additional credit for time spent in preparation may be granted by the board)) two additional hours of credit will be granted. Requests for credit must be submitted to the department of licensing, professional licensing division in Olympia, at least thirty days prior to the end of the reporting period. The request should include a brief outline of the lecture and the length of the presentation. Credit for subsequent presentations will be ((by individual consideration)) individually considered upon a showing that significant additional work has been required. No more than ten hours will be approved for any licensee in any two-year reporting period.

#### AMENDATORY SECTION (Amending Order PL 399, filed 6/2/82)

WAC 308-53-151 CREDIT FOR CPR TRAINING. ((On or after January 1, 1983,)) Continuing education credit, up to five credit hours yearly, may be granted for training obtained in a cardio-pulmonary resuscitation (CPR) course where such training is provided by a currently certified CPR instructor. A request for credit must include the name of the instructor, ((by whom)) the organization certifying the instructor ((is certified, and information regarding current)), the date the instructor's certification ((at the time of the course)) expires, and the date, length, and location of the course.

#### AMENDATORY SECTION (Amending Order PL 545, filed 7/31/85)

WAC 308-53-165 CERTIFICATION FOR CONTINUING EDUCATION COURSES. (1) In conjunction with the application for renewal of licensure, a licensee shall submit, on a form provided by the board, an affidavit of compliance with the continuing education requirement of WAC 308-53-100.

(2) Upon request of the board, a licensee shall submit evidence in addition to the affidavit to substantiate compliance with the continuing education requirement. Accordingly, it shall be the responsibility of the

licensee to maintain evidence and documentation of such compliance ((on a form provided by the board)).

(3) It is the responsibility of the licensee to seek prior approval of the board for any continuing education credit ((to be submitted)) where such credit is ((granted under the board's discretion on a case by case basis or otherwise)) not automatically approved under the provisions of WAC 308-53-120 through 308-53-155, or where the licensee has any doubt as to its acceptability.

#### AMENDATORY SECTION (Amending Order PM 710, filed 3/11/88)

**WAC 308-53-170 SURPLUS CREDIT HOURS.** Continuing education credits in excess of the required hours earned in any ((renewal)) reporting period may not be carried forward to a subsequent reporting period.

#### NEW SECTION

**WAC 308-53-175 CREDITS FOR PRACTICE MANAGEMENT.** Continuing education credit will be granted for courses or materials involving practice management; however, no more than ten credit hours total will be granted for practice management under WAC 308-53-120 through 308-53-150 in any two-year reporting period.

#### AMENDATORY SECTION (Amending Order PL 239, filed 3/3/76)

**WAC 308-53-180 DISCRETIONARY EXCEPTION FOR EMERGENCY SITUATION.** In emergency situations, such as personal or family sickness, the board may waive, for good cause shown, all or part of the continuing education requirement for a particular two-year reporting period for an individual licensee. The board will require such verification of the emergency as is necessary to prove its existence.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

#### **WAC 308-53-130 COURSES NOT PRESUMED TO QUALIFY.**

### **WSR 89-06-071 PROPOSED RULES DEPARTMENT OF LICENSING (Board of Practical Nursing) [Filed March 1, 1989]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Practical Nursing intends to adopt, amend, or repeal rules concerning licensure of graduates of foreign schools of nursing, amending WAC 308-117-080;

that the agency will at 9:30 a.m., Thursday, April 20, 1989, in the Fife Executive Inn, Chart Room, 5700 Pacific Highway East, Fife, WA 98424, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.78.050, 18.78.060, 18.78.070 and 18.130.050.

The specific statute these rules are intended to implement is RCW 18.78.050, 18.78.060, 18.78.070 and 18.130.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 12, 1989.

Dated: February 28, 1989  
By: Susan L. Boots  
Assistant Program Manager  
Executive Secretary

#### **STATEMENT OF PURPOSE**

Name of Agency: Washington State Board of Practical Nursing.

Purpose: To provide for exceptions, for good cause and in the board's discretion, to the TOEFL requirement.

Summary: WAC 308-117-080 Licensure of graduates of foreign schools of nursing.

Statutory Authority: RCW 18.78.050, 18.78.060, 18.78.070 and 18.130.050.

Reason Proposed: To assure that an applicant is qualified to be examined and licensed as a practical nurse.

Responsible Departmental Personnel: In addition to the members of the Washington State Board of Practical Nursing, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Susan Boots, Board of Practical Nursing, Division of Professional Programs Management, P.O. Box 9649, Olympia, Washington 98504, phone (206) 753-2807 comm, 234-2807 scan.

Proponents: The Washington State Board of Practical Nursing.

Small Business Economic Impact Statement: Not required since this rule does not impact small businesses as that term is defined in RCW 19.85.020.

#### AMENDATORY SECTION (Amending Order PM 705, filed 2/9/88)

**WAC 308-117-080 LICENSURE OF GRADUATES OF FOREIGN SCHOOLS OF NURSING.** ((1)) Applicants who received their nursing education outside the United States or its territories shall meet the following requirements for licensing:

((2)) (1) Satisfactory completion of a basic nursing education program approved by the country of original licensure. The nursing education program shall be equivalent to the minimum standards prevailing for state board approved schools of practical nursing in Washington at the time of graduation.

((2)) (2) Satisfactory passage of the test of English as a foreign language (TOEFL). As of May 1, 1988, all applicants with nursing educations obtained in countries outside of the United States and never before licensed in another jurisdiction or territory of the United States, shall be required to take the TOEFL and attain a minimum score of fifty in each section. Once an applicant obtains a score of fifty in a section, the board will require reexamination and passage only in the section(s) failed. Passage of all sections of the TOEFL must be attained and the applicant must cause TOEFL services to forward directly to the board a copy of the official examinee's score record. These results must be timely received with the individual's application before the NCLEX can be taken. Exceptions may be made, in the board's discretion and for good cause, to this requirement.

((3)) (3) All other requirements of the statute and regulations shall be met.

((4)) (4) File with the board of practical nursing a completed notarized license application with the required fee prior to February 15 for the April examination and prior to August 15 for the October examination. The fees are not refundable.

((5)) (5) Submit one recent United States passport identification photograph of the applicant unmounted and signed by the applicant across the front.

((6)) (6) Request the school of nursing to submit an official transcript directly to the board of practical nursing. The transcript shall contain the date of graduation and the credential conferred, and shall

be in English or accompanied by an official English translation notarized as a true and correct copy.

((g)) (7) File an examination application, along with the required fee, directly with the testing service.

((h)) (8) Successfully pass the current state board licensing examination for practical nurses or show evidence of having already successfully passed the state board licensing examination for practical nurses in another jurisdiction or territory of the United States with the passing score required in Washington.

**WSR 89-06-072**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Board of Nursing)**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Nursing intends to adopt, amend, or repeal rules concerning:

|     |                 |  |
|-----|-----------------|--|
| Amd | WAC 308-120-170 | Documents which indicate authorization to practice registered nursing in Washington. |
| Amd | WAC 308-120-305 | Use of nomenclature.   |
| New | WAC 308-120-810 | Determination and pronouncement of death;  |

that the agency will at 11:00 a.m., Friday, May 12, 1989, in the Spinnaker Room, Executive Inn, 5700 Pacific Highway East, Tacoma, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.88.080, [18.88].086, [18.88].110, [18.88].130, [18.88].140, [18.88].175, [18.88].280 and 18.130.050.

The specific statute these rules are intended to implement is RCW 18.88.080, [18.88].086, [18.88].110, [18.88].130, [18.88].140, [18.88].175, [18.88].280 and 18.130.050.

Dated: February 22, 1989  
By: Constance Roth, R.N., Ed.D.  
Executive Secretary  
Program Manager

**STATEMENT OF PURPOSE**

Title and Number of Rule Sections or Chapters:  
WAC 308-120-170 Documents which indicate authorization to practice registered nursing in Washington; 308-120-305 Use of nomenclature; and 308-120-810 Determination and pronouncement of death.

Statutory Authority: RCW 18.88.080, [18.88].086, [18.88].110, [18.88].130, [18.88].140, [18.88].175, [18.88].280 and 18.130.050.

Specific Statute that Rule is Intended to Implement: RCW 18.88.080, [18.88].086, [18.88].110, [18.88].130, [18.88].140, [18.88].175, [18.88].280 and 18.130.050.

Summary of the Rules and Reasons Supporting the Proposed Actions: WAC 308-120-170 and 308-120-305, to clarify who may use advanced and specialized nurse designations in order to restrict false and deceptive representations; and WAC 308-120-810, to provide for

the circumstances and requirements under which a nurse may determine and pronounce death.

In addition to members of the Board of Nursing, and the director of the Department of Licensing, the following individual has knowledge of and responsibility for drafting, implementing, and enforcing these rules: Constance Roth, R.N., Ed.D., Executive Secretary/Program Manager, Division of Professional Licensing, P.O. Box 9649, Olympia, WA 98504, (206) 753-2686 comm, 234-2686 scan.

Name of the Person or Organization that is Proposing the Rules: Washington State Board of Nursing.

Agency Comments or Recommendations: None.

These rules are not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rules or Their Purposes: None.

Small Business Economic Impact Statement: Not required and has not been filed since these rules do not impact more than 20 percent of all industries, or more than 10 percent of any one industry as that term is defined by RCW 19.85.020(3).

**AMENDATORY SECTION** (Amending Order PM 751, filed 7/28/88)

**WAC 308-120-170 DOCUMENTS WHICH INDICATE AUTHORIZATION TO PRACTICE REGISTERED NURSING IN WASHINGTON.** The following documents are the only documents that indicate legal authorization to practice as a registered nurse in Washington.

(1) Active license. A license is issued upon completion of all requirements for licensure – confers the right to use the title registered nurse and the use of its abbreviation, R.N. and to practice as a registered nurse in the state of Washington.

(2) Inactive license. A license issued to a person previously holding an active license in this state who desires to retire temporarily from the practice of nursing in this state.

(3) Interim permit. An interim permit may be issued to a graduate from an approved nursing school who has met all qualifications, has filed an application for examination and is eligible for admission to the licensing examination.

(a) This permit expires when a license is issued, when the candidate receives first notice of failure, or within one year from the date of issuance, whichever is the earliest date. The permit is not renewable.

(b) An applicant who does not write the examination on the date scheduled shall return the permit to the division of professional licensing.

(c) The interim permit authorizes the holder to perform functions of registered nursing as described in chapter 18.88 RCW. It is in violation of the law regulating the practice of registered nursing to use the title "registered nurse." The title "interim permit nurse" or "graduate nurse" may be used.

(4) Limited educational license. A limited educational license may be issued to a person who has been on nonpracticing status for three years or more and who wishes to return to active status (see WAC 308-120-185).

(5) Advanced registered nurse practitioner (ARNP) recognition document. An ARNP recognition document may be issued to any person who meets the requirements of the board as contained in WAC 308-120-300. Only persons holding this recognition document shall have the right to use the title "advanced registered nurse practitioner" or the abbreviation "ARNP((::))" or any title or abbreviation which may indicate that the person is entitled to practice at an advanced and specialized level as a nurse practitioner, a specialized nurse practitioner, a nurse midwife, or a nurse anesthetist. This document authorizes the ARNP to engage in the scope of practice allowed for his or her specialty area and is valid only with a current registered nurse license.

(6) ARNP interim permit. An interim permit may be issued following satisfactory completion of an advanced formal education program,

registration for the first certification examination of an approved program following completion of the education and filing of an application, fee and requested documentation. If the applicant passes the examination the department shall grant advanced registered nurse practitioner status. If the applicant fails the examination, the interim permit shall expire upon notification and is not renewable.

(7) ARNP prescriptive authorization. A notation of prescriptive authorization may be placed on the ARNP recognition document issued to any person who meets the requirements of the board as contained in WAC 308-120-410. This authorizes the ARNP to prescribe legend drugs within his or her scope of practice and is valid only with a current registered nurse license.

**AMENDATORY SECTION** (Amending Order PL 569, filed 11/26/85)

**WAC 308-120-305 USE OF NOMENCLATURE.** Any person who qualifies under WAC 308-120-300 and whose application for advanced registered nurse practitioner designation has been approved by the board shall be designated as ((a-~~part~~)) an advanced registered nurse practitioner and shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation following the nurse's name shall read "ARNP((::))" and the title or abbreviation designated by the approved national certifying body. No other initials or abbreviations shall legally denote advanced nursing practice. No other person shall assume such title or use such abbreviation ((or)). No other person shall use any other title, words, letters, signs or figures to indicate that the person using same is recognized as an advanced registered nurse practitioner and:

- (1) Family nurse practitioner, FNP; or
- (2) Women's health care nurse practitioner; or
- (3) Pediatric nurse practitioner/associate, PNP/PNA; or
- (4) Adult nurse practitioner, ANP; or
- (5) Geriatric nurse practitioner, GNP; or
- (6) Certified nurse midwife/nurse midwife, CNM; or
- (7) Nurse anesthetist, CRNA; or
- (8) School nurse practitioner, SNP.

**NEW SECTION**

**WAC 308-120-810 DETERMINATION AND PRONOUNCEMENT OF DEATH.** A nurse may determine and pronounce death, but shall not certify death as defined in RCW 70.58.160 unless the nurse is an ARNP-certified nurse midwife as defined in WAC 308-120-300.

(1) A nurse may assume responsibility for the determination and pronouncement of death only if there are written policies and procedures relating to the determination and pronouncement of death in the organization with which the nurse is associated as an employee or by contract, provided:

(a) The decedent was under the care of a health care practitioner qualified to certify cause of death; and

(b) The decedent was a patient of the organization with which the nurse is associated; and

(c) There is a "do not resuscitate order" in the patient's record when the decedent was assisted by mechanical life support systems at the time of determination and pronouncement of death.

(2) A nurse who assumes responsibility for the determination and pronouncement of death shall be knowledgeable of the laws and regulations regarding death and human remains which affect the nurse's practice of this responsibility.

(3) A nurse who assumes responsibility for the determination and pronouncement of death shall:

- (a) Perform a physical assessment of the patient's condition;
- (b) Insure that family and physician and other care givers are notified of the death; and

(c) Document the findings of the assessment and notification in all appropriate records.

**WSR 89-06-073**

**PROPOSED RULES**

**DEPARTMENT OF LICENSING**

**(Veterinary Board of Governors)**

[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Veterinary Board of Governors intends to adopt, amend, or repeal rules concerning:

- New WAC 308-154-085 AIDS prevention and information education requirements.
- New WAC 308-156-200 AIDS prevention and information education requirements.
- Amd WAC 308-150-014 Honesty, integrity and fair dealing;

that the agency will at 9:30 a.m., Tuesday, April 18, 1989, in the Sea-Tac Holiday Inn, 17338 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is section 604, chapter 206, Laws of 1988 and RCW 18.92.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 11, 1989.

Dated: February 27, 1989

By: Amanda L. Tomlinson  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Veterinary Board of Governors.

Title: WAC 308-154-085 AIDS prevention and information education requirements; 308-156-200 AIDS prevention and information education requirements; and 308-150-014 Honesty, integrity and fair dealing.

Description of Purpose: To amend rules relating to honesty, integrity and fair dealing, and to adopt new rules outlining AIDS education.

Statutory Authority: RCW 18.92.030 and section 604, chapter 206, Laws of 1988.

Summary of Rules: WAC 308-154-085, new rule outlining AIDS education requirements for veterinarians; WAC 308-156-200, new rule outlining AIDS education requirement for animal technicians; and WAC 308-150-014, amended to prohibit veterinarians from dissuading clients from filing disciplinary complaints.

Responsible Personnel: The Washington State Veterinary Board of Governors and the executive secretary for the board have the responsibility for drafting, implementing and enforcing these rules. The executive secretary is Delores E. Spice, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-3576 comm, 234-3576 scan.

Proponents: The Washington State Veterinary Board of Governors.

Federal Law or Federal or State Court Requirements: Not necessitated as a result of federal or state court action.

**Small Business Economic Impact Statement:** Not required and not provided in that these rules do not impact small businesses as that term is defined in RCW 19.85.020.

#### NEW SECTION

##### **WAC 308-154-085 AIDS PREVENTION AND INFORMATION EDUCATION REQUIREMENTS. (1) Definitions.**

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the Department of Social and Health Services or any successor department with jurisdiction over public health matters as defined in 70.24 RCW.

(2) Application for licensure. Effective September 1, 1989 persons applying for licensure shall submit, prior to obtaining a license, and in addition to the other requirements for licensure, evidence to show compliance with the education requirements of subsection (4).

(3) Renewal of licenses. Effective with the renewal period beginning September 1, 1989 and ending August 31, 1990, all persons making application for licensure renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4).

##### (4) AIDS education.

(a) Acceptable education. The board will accept education that is consistent with the topical outline available from the Office on AIDS. Alternatives to formal coursework may be in the form of video tapes, professional journal articles, periodicals, or audio tapes, that contain current or updated information. Such education shall include the subjects of prevention, transmission and treatment of AIDS, and may include the following: etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues including confidentiality; and psychosocial issues to include special population considerations.

(b) Implementation. Effective September 1, 1989, the requirement for licensure, renewal, or reinstatement of any license on lapsed, inactive, or disciplinary status shall include completion of AIDS education. All persons affected by this section shall show evidence of completion of education which meets the requirement of subsection (a).

##### (c) Documentation. The licensee shall:

(i) Certify, on forms provided, that the minimum education has been completed after January 1, 1987;

(ii) Keep records for two years documenting attendance or description of the learning;

(iii) Be prepared to validate, through submission of these records, that attendance or learning has taken place.

#### NEW SECTION

##### **WAC 308-156-200 AIDS PREVENTION AND INFORMATION EDUCATION REQUIREMENTS. (1) Definitions.**

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the Department of Social and Health Services or any successor department with jurisdiction over public health matters as defined in 70.24 RCW.

(2) Application for registration. Effective September 1, 1989 persons applying for registration shall submit prior to becoming registered and in addition to the other requirements for registration, evidence to show compliance with the education requirements of subsection (4).

(3) Renewal of registration. Effective with the renewal period beginning September 1, 1989 and ending August 31, 1990, all persons making application for registration renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4).

##### (4) AIDS education.

(a) Acceptable education. The board will accept education that is consistent with the topical outline available from the Office on AIDS. Alternatives to formal coursework may be in the form of video tapes, professional journal articles, periodicals, or audio tapes, that contain current or updated information. Such education shall include the subjects of prevention, transmission and treatment of AIDS, and may include the following: etiology and epidemiology; testing and counseling;

infection control guidelines; clinical manifestations and treatment; legal and ethical issues including confidentiality; and psychosocial issues to include special population considerations.

(b) Implementation. Effective September 1, 1989, the requirement for registration, renewal, or reinstatement of any registration on lapsed, inactive, or disciplinary status shall include completion of AIDS education. All persons affected by this section shall show evidence of completion of education which meets the requirement of subsection (a).

##### (c) Documentation. The registrant shall:

(i) Certify, on forms provided, that the minimum education has been completed after January 1, 1987;

(ii) Keep records for two years documenting attendance or description of the learning;

(iii) Be prepared to validate, through submission of these records, that attendance or learning has taken place.

#### AMENDATORY SECTION (Amending Order PL 575, filed 12/18/85)

**WAC 308-150-014 HONESTY, INTEGRITY AND FAIR DEALING.** A veterinarian shall conduct his/her practice on the highest plane of honesty, integrity and fair dealing with his/her clients in time and services rendered, and in the amount charged for services, facilities, appliances and drugs. It is unprofessional and unethical for a veterinarian to attempt to mislead or deceive a client or to make untruthful statements or representations to a client.

It is also unprofessional and unethical for a veterinarian to attempt to dissuade a client from filing a disciplinary complaint by, but not limited to, a liability release, waiver, or written agreement, wherein the client assumes all risk or releases the veterinarian from liability for any harm, damage, or injury to an animal while under the care, custody, or treatment by the veterinarian.

#### **WSR 89-06-074 ADOPTED RULES DEPARTMENT OF LICENSING (Cemetery Board)**

[Order PM 816—Filed March 1, 1989]

I, John Swannack, assistant director of Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to fees, WAC 98-70-010.

This action is taken pursuant to Notice No. WSR 89-03-032 filed with the code reviser on January 11, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 68.05.215 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** February 21, 1989.

By John Swannack  
Assistant Director  
Business and Professions

#### AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

**WAC 98-70-010 FEES.** The following fees shall be charged by the Washington state cemetery board:

| Title of Fee   | Fee                     |
|--|-------------------------|
| Regulatory charges   |                         |
| Charge per each preceding [calendar] year interments, entombments and inurnments | \$ ((2.40)) <u>3.00</u> |
| Prearrangement sales license   |                         |
| Application  | 100.00                  |
| Renewal  | 50.00                   |

Crematory license/endorsement fifty dollars/year plus fifty cents per cremation performed during applicable year.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

**WSR 89-06-075**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Board of Dental Examiners)**  
[Order PM 819—Filed March 1, 1989]

Be it resolved by the Board of Dental Examiners, acting at the West Coast Sea-Tac Hotel, Cascade Room, Seattle, Washington, that it does adopt the annexed rules relating to examination content, amending WAC 308-40-102.

This action is taken pursuant to Notice No. WSR 89-01-079 filed with the code reviser on December 20, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.32.040(4) and 18.32.120 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** January 27, 1989.

By Steven P. Marinkovich, D.D.S.  
President

**AMENDATORY SECTION** (Amending Order PM 740, filed 6/22/88)

**WAC 308-40-102 EXAMINATION CONTENT.**

(1) The examination will consist of:

(a) Theory: National board only accepted, except as provided in ((†)) (c) of this subsection.

(b) Practical/practice:

((†)) Restorative examination. The restorative examination shall consist of an amalgam restoration phase, a cast gold restoration phase, and a condensed gold restoration phase. Proper radiographs are required for each cavity selection.

Amalgam Class II

Cast gold restoration—Three or more surfaces.

Condensed gold—Class II, III or V)) The content of the practical/practice section shall consist of procedures or subjects as determined by the board.

(c) The board may, at its discretion, give an examination in any other subject under (a) or (b) of this subsection, whether in written and/or practical form. The applicant will receive information concerning such examination.

(2) Each applicant must furnish his or her own patient for all phases, as may be required, of the practical/practice examination. Patients must be at least eighteen years of age, and shall not be a dentist, dental student, dental hygienist or dental hygiene student. The state board of dental examiners and the school of dentistry assume no responsibility regarding work done on patients. Candidates will be required to furnish documentary evidence of malpractice and liability insurance prior to the first day of the examination.

(3) An assistant will be permitted to assist the applicant at the chair. Dentists or undergraduate dental students, hygienists, undergraduate hygienists are not acceptable as assistants. Assistants must complete a form of eligibility.

**WSR 89-06-076**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Board of Medical Examiners)**  
[Order PM 821—Filed March 1, 1989]

Be it resolved by the Washington State Board of Medical Examiners, acting at Seattle, Washington, that it does adopt the annexed rules relating to AIDS prevention and information education requirements, WAC 308-52-620.

This action is taken pursuant to Notice No. WSR 89-01-080 filed with the code reviser on December 20, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 70.24.270 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** January 27, 1989.

By James M. Garrison, Jr., M.D.  
Chairman

**NEW SECTION**

**WAC 308-52-620 AIDS PREVENTION AND INFORMATION EDUCATION REQUIREMENTS.**

(1) Definitions.

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the Department of Social and Health Services or any successor department with jurisdiction over public health matters as defined in 70.24 RCW.

(2) Application for licensure. Effective July 1, 1989 persons who submit an application for licensure shall submit, prior to being granted a license and in addition to the other requirements, evidence to show compliance with the educational requirements of subsection (4) or shall certify that such requirements will be satisfied by the date of the applicant's first renewal.

(3) 1989 renewal of licenses. Effective with the renewal period beginning July 1, 1989, through June 30, 1990, all persons making application for licensure renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4). Renewal applicants who have documented hardship which prevents obtaining the required education on AIDS may petition the board for an extension.

(4) AIDS education and training.

(a) Acceptable education and training. The board will accept education and training that qualifies for continuing medical education credit. Such education and training shall be a minimum of four clock hours regarding the prevention, transmission and treatment of AIDS, and may include, but is not limited to, the following: etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations.

(b) Implementation. Effective July 1, 1989, the requirement for licensure, renewal, or reinstatement of any license that is lapsed, inactive, or revoked or actually suspended for a term during which the licensee did not obtain the required AIDS education shall include completion of AIDS education and training. All persons affected by this section shall show evidence of completion of an education and training program, which meets the requirements of subsection (a).

(c) Documentation. The licensee or applicant for licensure shall:

(i) Certify, on forms provided, that the minimum education and training has been completed after January 1, 1987;

(ii) Keep records for two years documenting education and training and description of the learning;

(iii) Be prepared to validate, through submission of these records, that education and training has taken place.

**WSR 89-06-077**

**ADOPTED RULES**

**DEPARTMENT OF LICENSING**

**(Board of Medical Examiners)**

[Order PM 822—Filed March 1, 1989]

Be it resolved by the Washington State Board of Medical Examiners, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

Amd WAC 308-52-139 Physician assistant—Registration.  
Amd WAC 308-52-260 Examination scores.

This action is taken pursuant to Notice No. WSR 89-01-014 filed with the code reviser on December 9, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.71A-020 for WAC 308-52-134 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Washington State Board of Medical Examiners as authorized in RCW 18.71.017 for WAC 308-52-260.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

**APPROVED AND ADOPTED** January 27, 1989.

By James M. Garrison, Jr., M.D.  
Chairman

**AMENDATORY SECTION** (Amending Order PM 782, filed 10/13/88)

**WAC 308-52-139 PHYSICIAN ASSISTANT—REGISTRATION.** (1) Classification. Each physician assistant will be classified according to the specialty or content of his or her training program.

(2) Registration procedure. Applications shall be made jointly by the physician and the assistant on forms supplied by the board. Applications and supporting documents must be on file in the board office prior to consideration for registration.

(3) Registration expiration and renewal. Physician assistant original registration will be issued to expire on the physician assistant's next birthdate. Each registered assistant and the registering physician shall be required to submit an application and fees annually for renewal of their registration at least sixty days prior to the expiration of the registration. Application for renewal shall be submitted on forms provided by the board. A physician assistant may allow his or her registration to expire for no longer than three years and reinstate it by submitting an application with all the required documents and application fee. After three years registration expiration, the physician assistant will be considered a new applicant and will have to meet all statutes and rules in effect at the time of the new application.

(4) Change of registration. In the event that a physician assistant who is currently registered desires to become associated with another physician. Application for transfer of registration shall be made on forms provided by the board.

**AMENDATORY SECTION** (Amending Order PL 508, filed 1/18/85)

**WAC 308-52-260 EXAMINATION SCORES.** Examinations given by the Washington state board of medical examiners:

(a) The board adopts the examination of the federation of state licensing boards as the examination given by the board.

(b) The minimal passing scores for each component of the FLEX I and II examinations shall be seventy-five percent. An applicant who chooses to take both components of the examination in a single three day sitting must obtain a passing score on both components; or receive a passing score on the FLEX I component in order for a passing score on FLEX II to be valid. A passing score on FLEX II will not be accepted if FLEX I has not been passed.

(c) An applicant must pass both components of the examination within seven years. An applicant will be required to demonstrate evidence of completion of a remedial or refresher medical course approved by the board after three failures of a single component. Time will be calculated for this subsection beginning with the June, 1989 examination. There will be no exemptions from the seven-year limitation because of failure to sit for an examination or because a remedial or refresher course was required.

(d) Applicants will be eligible to take FLEX I after completion of medical school and satisfactory verification of good standing in a board-approved postgraduate training program. FLEX II may only be taken after passing FLEX I and having completed or substantially completed the first year of postgraduate training: PROVIDED, That after completing or substantially completing one year of a board-approved postgraduate training program, an applicant has the option of taking FLEX II or taking both FLEX I and FLEX II in a single sitting.

**WSR 89-06-078  
ADOPTED RULES  
DEPARTMENT OF LICENSING**  
[Order BLS 130—Filed March 1, 1989]

I, Mary Faulk, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to WAC 308-400-010, 308-400-020, 308-400-025, 308-400-030, 308-400-040, 308-400-046, 308-400-047, 308-400-048, 308-400-050, 308-400-052, 308-400-058, 308-400-059, 308-400-095, 308-400-100 and 308-400-120; and repealing WAC 308-400-044.

This action is taken pursuant to Notice No. WSR 88-23-121 filed with the code reviser on November 23, 1988. These rules shall take effect thirty days after they

are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 62A.9-409, 60.11.040, 60.13.040 and chapter 60.68 RCW as amended by chapter 73, Laws of 1988 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 24, 1989.

By Mary Faulk  
Director

**Chapter 308-400 WAC  
STANDARDIZED FILING FORMS AND PROCEDURES—UNIFORM COMMERCIAL CODE, CROP LIENS, AND PROCESSOR AND PREPARER LIENS FOR AGRICULTURAL AND COMMERCIAL FISH PRODUCTS AND CERTAIN FEDERAL LIENS**

**AMENDATORY SECTION** (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

**WAC 308-400-010 AUTHORITY AND PURPOSE.** These rules are adopted under authority of RCW 62A.9-409(1), 60.11.040(3), 60.13.040 (2)(f) and 34-04.020, to standardize filing forms for use under the Uniform Commercial Code and to establish uniform procedures for filing with, and obtaining information from, filing officers.

**AMENDATORY SECTION** (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

**WAC 308-400-020 APPLICABLE STATUTES.** The regulations in this chapter shall be considered a supplement to and not a replacement for Article 62A.9 RCW, or chapters 60.11 ((or)), 60.13, or 60.68 RCW.

**AMENDATORY SECTION** (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

**WAC 308-400-025 FILING OF CROP LIENS AND PROCESSOR AND PREPARER LIENS FOR AGRICULTURAL AND COMMERCIAL FISH PRODUCTS.** Crop liens and processor and preparer liens for agricultural and commercial fish products shall be filed under the uniform commercial code section of the department of licensing in accordance with the regulations adopted in this chapter.

**AMENDATORY SECTION** (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

**WAC 308-400-030 DEFINITIONS.** As used in this regulation: "Filing officer" means the director of the department of licensing or the county auditor or any person commissioned by them to act on their behalf in a Uniform Commercial Code or crop lien or processor or preparer filing procedure.

"Person" includes groups of persons, corporations, co-operatives, business trusts and all other entities capable of holding title to property.

"Filings" includes all financing statements and related documents, or documents submitted to a filing officer in lieu of financing statements under Title 62A RCW and chapters 60.11 ((and)), 60.13, and 60.68 RCW.

"Claimant" means a person who claims or asserts a right, demand, or claim.

"Secured" means supported or backed by security or collateral.

"Standard filing forms" mean the filing forms approved by the department of licensing.

#### AMENDATORY SECTION (Amending Order 674-DOL, filed 6/9/82)

WAC 308-400-040 UCC-1 FINANCING STATEMENT. Effective ((July 1, 1982)) January 1, 1990, the following form shall be the standard UCC-1 Financing Statement Form prescribed by the department of licensing:

#### FINANCING STATEMENT INSTRUCTIONS UCC-1

1. **COMPLETION OF FORM:** Please type or print the information presented on this form clearly and accurately. If you make an error, be certain to correct all copies. Information from the copies will be microfilmed and recorded exactly as you present it. A financing statement must contain the name and mailing address of the debtor, the name and address of the secured party, appropriate signature(s) and a description of the collateral covered by the financing statement.
  2. **DEBTOR AND SECURED PARTY NAMES:** The legal name of the debtor, secured party or assignee is required. When the debtor name is a personal name, check the personal box and enter the Social Security number. If the debtor name is a business name, check the business box and enter the FEIN. If the filing is being made under both personal and business names, both boxes should be checked. Trade names, DBAs or AKAs (including nicknames), may also be entered in box 1.  
If more than one debtor is listed please follow the same procedure for each named debtor.
  3. **SIGNATURES:** All debtors must sign box 12, an attached signature page or a security agreement, unless box 11 is completed. If box 11 is completed, the secured party must sign box 13. The typed or printed name of the debtor or secured party must appear above the signature(s) in boxes 12 or 13 exactly as it appears in boxes 1, 3 or 4.
  4. **DEFINITION OF TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL:** A TRANSMITTING UTILITY is any person primarily engaged in the railroad, street railway or trolley bus business; the electric or electronic communication transmission business; the transmission of goods by pipeline or the transmission or the production and transmission of electricity, steam, gas or water; or the provision of sewer service.  
PRODUCTS OF COLLATERAL are things made from collateral in which a security interest has been perfected including things whose original identity may be lost by manufacture, processing, assemblage or commingling.
  5. **ATTACHMENTS:** If space provided in any box is inadequate, type or print the words "See Attachments" in the box and continue the information on additional 8 1/2" by 11" sheets. Enter the total number of attached sheets in box 6. Include copies of the attached sheets only if you want copies of the attachments returned. If any attachment(s) are added to the filing form, the fee is \$7.00.
  6. **MAILING:** Send copies 1 and 2 to the address provided in box 9. Do not remove the carbons between these pages. Use an envelope 9 1/2" x 6 1/2" to prevent mutilation during the automated mail opening process.
  7. **TERMINATION:** When the filing is to be terminated, the acknowledgment copy may be returned to the filing officer with the termination statement signed by the secured party of record. The UCC-3 form may also be used as a termination statement. When either form is used, the current legal name of the secured party of record must be typed or printed above the signature.  
If the name of the secured party has changed for any reason since the last filing action on the financing statement you are terminating, the past and current legal name(s) of the secured party(ies) must appear above the appropriate signature.
- There is no charge to terminate a filing.

**8. FILING FEES:** The fee for filing a UCC-1 (R/12/88) is \$4.00. If any other form is used or additional sheet(s) have been attached, the filing fee is \$7.00. Filing(s) will not be recorded unless the proper fee is sent. Checks should be made payable to the Department of Licensing.

collateral, unless otherwise indicated immediately below

**LEASE** — This filing is for informational purposes only. The terms debtor and secured party are to be construed as LESSEE and LESSOR.

**CONSIGNMENT** — This filing is for informational purposes only. The terms debtor and secured party are to be construed as CONSIGNEE and CONSIGNOR.

1. DEBTOR(S) (or assignor(s))  
(last name first, and address(es))

2. FOR OFFICE USE ONLY

TRADE NAME:  
(if any)

3. SECURED PARTY(IES) (or assignee(s)) (name and address)

4. ASSIGNEE(S) OF SECURED PARTY(IES)  
(if applicable)  
(last name first, and address(es))

5. CHECK IF APPLICABLE:

Products of collateral are also covered.

Filing covers a security interest in collateral, including fixtures, of a  
TRANSMITTING UTILITY and remains effective until terminated.

6. NUMBER OF ADDITIONAL SHEETS PRESENTED:

For Informational Purposes Only:  
Check Box if Filing Covers Consumer Goods

Copy 1—Filing Officer—Index

WASHINGTON UCC 1

PLEASE TYPE FORM  
THIS FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE to perfect a security interest in the below named collateral unless otherwise indicated immediately below.

- LEASE -- This filing is for informational purposes only. The terms debtor and secured party are to be construed as LESSEE and LESSOR.  
 CONSIGNMENT -- This filing is for informational purposes only. The terms debtor and secured party are to be construed as CONSIGNEE and CONSIGNOR.

1 DEBTOR(S) (or assignor(s))  
(last name first, and addresses)

2 FOR OFFICE USE ONLY

TRADE NAME,  
(if any)

3 SECURED PARTY(IES) (or assignee(s)) (name and address)

4 ASSIGNEE(S) OF SECURED PARTY(IES)  
(if applicable)  
(last name first, and addresses)

5. CHECK IF APPLICABLE:  
 Products of collateral are also covered.  Filing covers a security interest in collateral, including fixtures, of a TRANSMITTING UTILITY and remains effective until terminated.

6. NUMBER OF ADDITIONAL SHEETS PRESENTED:

For Informational Purposes Only:  
Check Box if Filing Covers Consumer Goods

7. This FINANCING STATEMENT covers the following types or items of property:

8. RETURN ACKNOWLEDGMENT COPY TO:

FILE WITH:

UNIFORM COMMERCIAL CODE DIVISION  
DEPARTMENT OF LICENSING  
P O BOX 9660  
OLYMPIA, WA 98504

FOR OFFICE USE ONLY

Images to  
Be Filmed

9. This statement is signed by the Secured Party(ies) instead of the Debtor(s) to perfect a security interest in collateral. (Please check appropriate box.)

Complete fully if box (d) is checked.  
complete as applicable for (d), (d), and (c).

- (a)  already subject to a security interest in another jurisdiction when it was brought into this state, or when the debtor's location was changed to this state, or  
 (b)  which is proceeds of the original collateral described above in which a security interest was perfected, or  
 (c)  as to which the filing has lapsed, or  
 (d)  acquired after a change of name, identity, or corporate structure of the debtor(s)

Original filing number \_\_\_\_\_

Filing office where filed \_\_\_\_\_

Former name of debtor(s) \_\_\_\_\_

10

USE IF APPLICABLE

TYPE NAME(S) OF DEBTOR(S) (or assignor(s))

TYPE NAME(S) OF SECURED PARTY(IES) (or assignee(s))

SIGNATURE(S) OF DEBTOR(S) (or assignor(s))

SIGNATURE(S) OF SECURED PARTY(IES) (or assignee(s))

11. *[Signature]* *[Signature]*

WASH. STATE L. 1989

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON

# **Washington State Register, Issue 89-06**

WSR 89-06-078

PLEASE TYPE FORM  
This FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE to perfect a security interest in the below named collateral, unless otherwise indicated immediately below.

- LEASE** — This filing is for informational purposes only. The terms debtor and secured party are to be construed as LESSEE and LESSOR  
 **CONSIGNMENT** — This filing is for informational purposes only. The terms debtor and secured party are to be construed as CONSIGNEE and CONSIGNOR

1. DEBTOR(S) (Last name first, and address(es))

2. FOR OFFICE USE ONLY

TRADE NAME:  
(if any)

**3. SECURED PARTY(IES) (or assignee(s))**

(name and address)

**4. ASSIGNEE(S) OF SECURED PARTY(IES)**  
(if applicable)  
(last name, first name, middle initial(s))

**6. NUMBER OF ADDITIONAL SHEETS PRESENTED:**

- Products of collateral are also covered.

6. NUMBER OF ADDITIONAL SHEETS PRESENTED:

**For Informational Purposes Only:  
Check Box if Filing Covers Consumer Goods**

7. This FINANCING STATEMENT covers the following types or items of property:

**8. RETURN ACKNOWLEDGMENT COPY TO:**

FOR OFFICE USE ONLY

9. This statement is signed by the Secured Party(ies) instead of the Debtor(s) to perfect a security interest in collateral. (Please attach exhibits if applicable.)

Complete fully if box (d) is checked.  
complete as applicable for (a), (b), and (c):

- (a)  already subject to a security interest in another jurisdiction when it was brought into this state, or when the debtor's location was changed to this state, or

(b)  which is proceeds of the original collateral described above in which a security interest was perfected, or

(c)  as to which the filing has lapsed, or

(d)  acquired after a change of name, identity, or corporate structure of the debtor(s).

**Original filing number**

**Original filing number**

Edgar Allan Poe 10

**TERMINATION STATEMENT** The SECURED PARTY(IES) certifies that the SECURED PARTY(IES) no longer claims a security interest under the financing statement bearing the number shown above.

Name \_\_\_\_\_ Date \_\_\_\_\_

Return to Uniform Commercial Code Division, Department of Licensing  
P.O. Box 46000, Olympia, WA 98504

**PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES**

This UCC-1 FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.

Filing fee . . . . \$4.00 Filing with attachment fee . . . . \$7.00

1. DEBTOR(S) (see instruction #2)

PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_

BUSINESS (legal business name and address) FEIN: \_\_\_\_\_

**2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX**

TRADE NAME, DBA, AKA:

3. SECURED PARTY(IES) (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable  
(name and address)

5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.)

Debtor is a Transmitting Utility

Products of Collateral are also covered

6. NUMBER OF ADDITIONAL SHEETS PRESENTED:

7. THIS FINANCING STATEMENT covers the following collateral: (Attach additional 8 1/2" x 11" sheet(s) if needed.)

8. RETURN ACKNOWLEDGMENT COPY TO: (name and address)

9. FILE WITH:

UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

10. FOR OFFICE USE ONLY IMAGES TO  
BE FILMED

11. If collateral is described below, this statement may be signed by the Secured Party instead of the Debtor. Please check the appropriate box, complete the adjacent lines and box 13, if collateral is:

- a.  already subject to a security interest in another jurisdiction when it was brought into this state or when the debtor's location was changed to this state. (complete adjacent lines 1 and 2)
- b.  proceeds of the original collateral described above in which a security interest was perfected. (complete adjacent lines 1 and 2)
- c.  listed on a filing which has lapsed. (complete adjacent lines 1 and 2)
- d.  acquired after a change of name, identity, or corporate structure of the debtor(s). (complete adjacent lines 1, 2 and 3)

1. \_\_\_\_\_ ORIGINAL FILING NUMBER

2. \_\_\_\_\_ FILING OFFICE WHERE FILED

3. \_\_\_\_\_ FORMER NAME OF DEBTOR(S)

12. DEBTOR NAME(S) AND SIGNATURE(S):

13. SECURED PARTY NAME(S) AND SIGNATURE(S) ARE REQUIRED IF BOX 11 HAS BEEN COMPLETED.

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1.

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4.

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)

WASHINGTON UCC-1

COPY 1 -- FILING OFFICE

**Washington State Register, Issue 89-06**

WSR 89-06-078

**PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES**

This **UCC-1 FINANCING STATEMENT** is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.

Filing fee . . . . \$4.00      Filing with attachment fee . . . . \$7.00

|   |   |
|---|---|
| <p><b>1. DEBTOR(S) (see instruction #2)</b></p> <p><input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____</p> <p><input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____</p> | <p><b>2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX</b></p> |
|---|---|

|  |   |
|--|---|
| <p><b>3. SECURED PARTY(IES) (<i>name and address</i>)</b></p> <p>[ ]</p> <p>[ ]</p> <p>[ ]</p> | <p><b>4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable<br/>(<i>name and address</i>)</b></p> <p>[ ]</p> <p>[ ]</p> <p>[ ]</p> |
|--|---|

5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.)  
 Debtor is a Transmitting Utility       Products of Collateral are also covered

6. NUMBER OF ADDITIONAL SHEETS PRESENTED: \_\_\_\_\_

- 7. THIS FINANCING STATEMENT covers the following collateral: (A)**

7. THIS FINANCING STATEMENT covers the following collateral. (Attach additional 8½" x 11" sheet(s) if needed.)

|  |  |
|--|--|
| B. RETURN ACKNOWLEDGMENT COPY TO: <i>(name and address)</i><br><br>[ ]<br><br>[ ]<br><br>[ ] | 9. FILE WITH:<br><br><b>UNIFORM COMMERCIAL CODE<br/>DEPARTMENT OF LICENSING<br/>P.O. BOX 9660<br/>OLYMPIA, WA 98504</b><br><br><b>MAKE CHECKS PAYABLE TO THE<br/>DEPARTMENT OF LICENSING</b> |
|  | 10. FOR OFFICE USE ONLY IMAGES TO<br>BE FILMED   |



**TERMINATION STATEMENT:** The SECURED PARTY(IES) certifies that the SECURED PARTY(IES) no longer claims a security interest under the financing statement bearing the file number shown above. NO FEE REQUIRED FOR TERMINATION.

PRINT OR TYPE NAME OF SECURED PARTY(IFFS) AS IT APPEARS IN BOX 3 OR 4. (see instruction #7)

**Signature(s)** \_\_\_\_\_

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)

**PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES**

This **UCC-1 FINANCING STATEMENT** is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.

Filing fee . . . . \$4.00 Filing with attachment fee . . . . \$7.00

## 1. DEBTOR(S) (see instruction #2)

PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_

BUSINESS (legal business name and address) FEIN: \_\_\_\_\_

## 2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA:

## 3. SECURED PARTY(IES) (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable  
(name and address)

## 5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.)

Debtor is a Transmitting Utility  Products of Collateral are also covered

## 6. NUMBER OF ADDITIONAL SHEETS PRESENTED:

## 7. THIS FINANCING STATEMENT covers the following collateral: (Attach additional 8½" x 11" sheet(s) if needed.)

## 8. RETURN ACKNOWLEDGMENT COPY TO: (name and address)

## 9. FILE WITH:

UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

10. FOR OFFICE USE ONLY IMAGES TO BE FILMED 

## 11. If collateral is described below, this statement may be signed by the Secured Party instead of the Debtor. Please check the appropriate box, complete the adjacent lines and box 13, if collateral is:

- a.  already subject to a security interest in another jurisdiction when it was brought into this state or when the debtor's location was changed to this state. (complete adjacent lines 1 and 2)
- b.  proceeds of the original collateral described above in which a security interest was perfected. (complete adjacent lines 1 and 2)
- c.  listed on a filing which has lapsed. (complete adjacent lines 1 and 2)
- d.  acquired after a change of name, identity, or corporate structure of the debtor(s). (complete adjacent lines 1, 2 and 3)

1. \_\_\_\_\_ ORIGINAL FILING NUMBER

2. \_\_\_\_\_ FILING OFFICE WHERE FILED

3. \_\_\_\_\_ FORMER NAME OF DEBTOR(S)

## 12. DEBTOR NAME(S) AND SIGNATURE(S):

## 13. SECURED PARTY NAME(S) AND SIGNATURE(S) ARE REQUIRED IF BOX 11 HAS BEEN COMPLETED.

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1.

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF DEBTOR(S)

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4.

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF SECURED PARTY(IES)

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)  
WASHINGTON UCC-1

**PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES**

This UCC-1 FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.

Filing fee . . . . \$4.00 Filing with attachment fee . . . . \$7.00

1. DEBTOR(S) (see instruction #2)

PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_

BUSINESS (legal business name and address) FEIN: \_\_\_\_\_

2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA:

3. SECURED PARTY(IES) (name and address)

4. ASSIGNEE(S) OR SECURED PARTY(IES) if applicable  
(name and address)

5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.)  
 Debtor is a Transmitting Utility       Products of Collateral are also covered

6. NUMBER OF ADDITIONAL SHEETS PRESENTED: \_\_\_\_\_

7. THIS FINANCING STATEMENT covers the following collateral: (Attach additional 8½" x 11" sheet(s) if needed.)

8. RETURN ACKNOWLEDGMENT COPY TO: (name and address)

9. FILE WITH:

UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

10. FOR OFFICE USE ONLY IMAGES TO BE FILMED

11. If collateral is described below, this statement may be signed by the Secured Party instead of the Debtor. Please check the appropriate box, complete the adjacent lines and box 13, if collateral is:

- a.  already subject to a security interest in another jurisdiction when it was brought into this state or when the debtor's location was changed to this state. (complete adjacent lines 1 and 2)
- b.  proceeds of the original collateral described above in which a security interest was perfected. (complete adjacent lines 1 and 2)
- c.  listed on a filing which has lapsed. (complete adjacent lines 1 and 2)
- d.  acquired after a change of name, identity, or corporate structure of the debtor(s). (complete adjacent lines 1, 2 and 3)

1. \_\_\_\_\_ ORIGINAL FILING NUMBER

2. \_\_\_\_\_ FILING OFFICE WHERE FILED

3. \_\_\_\_\_ FORMER NAME OF DEBTOR(S)

12. DEBTOR NAME(S) AND SIGNATURE(S):

13. SECURED PARTY NAME(S) AND SIGNATURE(S) ARE REQUIRED IF BOX 11 HAS BEEN COMPLETED.

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1.

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4.

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)

COPY 4 - FILE COPY – SECURED PARTY

WASHINGTON UCC-1

((INSTRUCTIONS UCC-1)1. PLEASE TYPE THIS FORM.

2. If the space provided for any item on the form is inadequate, the item should be identified and continued on additional sheets, preferably 8 1/2" X 11". The name of the debtor should appear as the first item on each additional sheet. Only one copy of such additional sheets need be presented to the filing officer with the two copies of the financing statement. Indicate the number of sheets attached in the space provided.
3. At the time of original filing, the filing officer will return copy (3) as an acknowledgment. Indicate in box 8 to whom the acknowledgment should be returned.
4. The filing fee for a standard form is \$4.00. The fee is \$7.00 if any other form is used or if any additional sheets or documents are attached to the standard UCC-1. Proper filing fees must accompany each form.
5. When a copy of the security agreement is used as a financing statement, it should be accompanied by a completed but unsigned set of these forms. The \$7.00 fee applies.
6. Typed name of debtor and/or secured party must appear with signature.
7. DO NOT WRITE IN BOX 2.
8. REMOVE and retain copies (4) and (5). SEND copies (1), (2), and (3) to the address on the front of the form.

TERMINATION STATEMENT

When the filing is to be terminated the acknowledgment copy may be sent to the filing officer with the termination statement signed by the secured party of record, or the UCC-3 form may be used as a termination statement. If a partial assignment has been made, signatures of both the secured party and assignee are required to terminate. Typed name of secured party of record must appear with signature. No fee is required for a termination statement.

AMENDATORY SECTION (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

WAC 308-400-046 UCC-3 CHANGE STATEMENT. Effective ((July 1, 1982)) January 1, 1990, the following form shall be the standard UCC-3 Form prescribed by the department of licensing:

CHANGE STATEMENT INSTRUCTIONS  
UCC-3

1. **COMPLETION OF FORM:** Please type or print the information presented on this form clearly and accurately. If you make an error, be certain to correct all copies. Information from the copies will be microfilmed and recorded exactly as you present it. The UCC-3 form must contain the name and mailing address of the debtor, the name and address of the secured party, the file number and date of the original financing statement, and a description of the action, where applicable.
2. **DEBTOR AND SECURED PARTY NAMES:** The legal name of the debtor, secured party or assignee is required as it appeared on your original filing. When the debtor name is a personal name, check the personal box and enter the Social Security number. If the debtor name is a business name, check the business box and enter the FEIN. If the filing is being made under both personal and business names, both boxes should be checked. Trade names, DBAs or AKAs (including nicknames), may also be entered in the space provided. If more than one debtor is listed please follow the same procedure for each named debtor.
3. **SIGNATURES:** The signature of the secured party of record is required on all change actions. If the name of the secured party has changed and you have not submitted a change statement, the past and current legal name(s) of the secured party(ies) must be typed above the appropriate signatures. An amendment also requires the signature of the debtor(s).
4. **ATTACHMENTS:** If the space provided in any box is inadequate, type or print the words "See Attachments" within the box and continue the information on additional 8 1/2" x 11" sheets. Enter the total number of attached sheets in box 6. Include copies of the attached sheets only if you want copies of the attachments returned. If any attachments are added to the filing form, the fee is \$7.00 for each action.
5. **MULTIPLE ACTIONS:** If more than one action is requested on a single form, a fee is charged for each action except termination which requires no fee. Multiple changes may be made to a single UCC file number using a single UCC-3 form, except for terminations which may not be combined with any other change.
6. **MAILING:** Send copies 1 and 2 to the address provided in box 12. Do not remove the carbons between these pages. Use an envelope 9 1/2" x 6 1/2" to prevent mutilation during the automated mail opening process.
7. **FILING FEES:** The fee for filing each action requested in box 7 of the UCC-3 (R/12/88) is \$4.00, except for termination which requires no fee. If additional sheets are attached for any of the actions (except termination) the filing fee for each action shall be \$7.00. Filings will not be recorded unless sufficient payment is received. Checks should be made payable to the Department of Licensing.

**PLEASE TYPE FORM**

This **CHANGE STATEMENT** is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, Crop Liens and Processor and Preparer statutes.

IF LEASE - The terms debtor and secured party are to be construed as LESSEE AND LESSOR.

IF CONSIGNMENT - The terms debtor and secured party are to be construed as LESSEE AND LESSOR.

IF CROP LIEN - The terms debtor and secured party are to be construed as LIEN DEBTOR and LIEN HOLDER/CLAIMANT.

IF PROCESSOR AND PREPARER LIEN FOR AGRICULTURAL PRODUCTS - The term debtor is to be construed as preparer, conditioner, or processor. The term secured party is to be construed as PRODUCER.

IF A CROP LIEN OR PREPARER OR PROCESSOR LIEN FOR AGRICULTURAL PRODUCTS - The term financing statement shall be construed as STATEMENT EVIDENCING LIEN.

1. DEBTOR(S) (or assignor(s))  
(last name first, and address(es))

2. FOR OFFICE USE ONLY

TRADE NAME:  
(if any)

3. SECURED PARTY(IES) (or assignee(s))  
(name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES)  
(if applicable)  
(last name first, and address(es))

5. This statement refers to original FINANCING STATEMENT number \_\_\_\_\_

Dated \_\_\_\_\_

6. FOR OFFICE USE ONLY:

C

F-AS

P-AS

AM

PR

T

COPY 1-FILING OFFICER-INDEX

WASHINGTON UCC-3

## PLEASE TYPE OR PRINT

This CHANGE STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, Crop Liens and Processor and Preparer statutes.  
 IF LEASE — The terms debtor and secured party are to be construed as LESSEE AND LESSOR.  
 IF CROP LIEN — The terms debtor and secured party are to be construed as LESSEE AND LESSOR.  
 IF CROP LIEN — The terms debtor and secured party are to be construed as LIEN DEBTOR and LIEN HOLDER/CLAIMANT.  
 IF PROCESSOR AND PREPARER LIEN FOR AGRICULTURAL PRODUCTS — The term debtor is to be construed as preparer, conditioner, or processor. The term secured party is to be construed as PRODUCER.  
 IF A CROP LIEN OR PREPARER OR PROCESSOR LIEN FOR AGRICULTURAL PRODUCTS — The term financing statement shall be construed as STATEMENT EVIDENCING LIEN.

1. DEBTOR(S) (or assignor(s))  
 (last name first, and addresses)

2. FOR OFFICE USE ONLY

TRADE NAME:  
 (if any)

3. SECURED PARTY(IES) (or assignee(s)) (name and address)

4. ASSIGNEE(S) / SECURED PARTY(IES)  
 (if applicable)  
 (last name first, and addresses)

5. This statement refers to original FINANCING STATEMENT number \_\_\_\_\_ Dated \_\_\_\_\_

7.  CONTINUATION. The original financing statement between the foregoing Debtor(s) and Secured Party(ies), bearing file number above is still effective.  
 FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number above have been assigned to the Assignee(s) whose NAME(S) AND ADDRESS(ES) APPEAR ABOVE.  
 PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown above to the property DESCRIBED BELOW have been assigned to the Assignee(s) whose NAME(S) AND ADDRESS(ES) APPEAR ABOVE.  
 AMENDMENT. Financing statement bearing file number shown above is amended AS SET FORTH BELOW.  
 PARTIAL RELEASE. Secured Party(ies) releases the collateral DESCRIBED BELOW from the financing statement bearing file number shown above.  
 TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown above.

DESCRIPTION:

8. NUMBER OF ADDITIONAL SHEETS ATTACHED:

9.

TYPE NAME(S) OF DEBTOR(S) (or assignor(s))

TYPE NAME(S) OF SECURED PARTY(IES) (or assignee(s))

SIGNATURE(S) OF DEBTOR(S) (or assignor(s))  
 (Required if amendment)

SIGNATURE(S) OF SECURED PARTY(IES) (or assignee(s))

10. RETURN ACKNOWLEDGEMENT COPY TO:

FILE WITH:  
 UNIFORM COMMERCIAL CODE DIVISION  
 DEPARTMENT OF LICENSING  
 PO. BOX 9660  
 OLYMPIA, WA 98504  
 OR  
 IF FIXTURE FILING,  
 COUNTY AUDITOR OF COUNTY WHERE  
 ORIGINAL FILING WAS MADE

FOR OFFICE USE ONLY.

Images to  
 be Faxed

COPY TO FILING OFFICER NUMBER:

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON  
 WASHINGTON UCC 3

This CHANGE STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE. Crop Liens and Processor and Preparer statutes.  
 IF LEASE – The terms debtor and secured party are to be construed as LESSEE AND LESSOR.  
 IF CONSIGNMENT – The terms debtor and secured party are to be construed as LESSEE AND LESSOR.  
 IF CROP LIEN – The terms debtor and secured party are to be construed as LIEN DEBTOR and LIEN HOLDER/CLAIMANT.  
 IF PROCESSOR AND PREPARER LIEN FOR AGRICULTURAL PRODUCTS – The term debtor is to be construed as preparer, conditioner, or processor. The term secured party is to be construed as PRODUCER.  
 IF A CROP LIEN OR PREPARER OR PROCESSOR LIEN FOR AGRICULTURAL PRODUCTS – The term financing statement shall be construed as STATEMENT EVIDENCING LIEN.

1. DEBTOR(S) (or assignor(s))  
 (last name first, and addresses)

2. FOR OFFICE USE ONLY

TRADE NAME:  
 (if any)

3. SECURED PARTY(IES) (or assignee(s)) (name and address)

4. ASSIGNEE(S) OF SECURED PARTY(IES)  
 (if applicable)  
 (last name first, and addresses)

5. This statement refers to original FINANCING STATEMENT number \_\_\_\_\_ Dated \_\_\_\_\_

7.  CONTINUATION. The original financing statement between the foregoing debtor(s) and Secured Party(ies), bearing file number above is still effective.  
 FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number above have been assigned to the Assignee(s) whose NAME(S) AND ADDRESS(ES) APPEAR ABOVE.  
 PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown above to the property DESCRIBED BELOW have been assigned to the Assignee(s) whose NAME(S) AND ADDRESS(ES) APPEAR ABOVE.  
 AMENDMENT. Financing statement bearing file number shown above is amended AS SET FORTH BELOW.  
 PARTIAL RELEASE. Secured Party(ies) releases the collateral DESCRIBED BELOW from the financing statement bearing file number shown above.  
 TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown above.

DESCRIPTION:

8. NUMBER OF ADDITIONAL SHEETS ATTACHED:

9.

TYPE NAME(S) OF DEBTOR(S) (or assignor(s))

TYPE NAME(S) OF SECURED PARTY(IES) (or assignee(s))

SIGNATURE(S) OF DEBTOR(S) (or assignor(s))  
 (Required if amendment)

SIGNATURE(S) OF SECURED PARTY(IES) (or assignee(s))

10. RETURN ACKNOWLEDGEMENT COPY TO:

FILE WITH:  
 UNIFORM COMMERCIAL CODE DIVISION  
 DEPARTMENT OF LICENSING  
 PO. BOX 9860  
 OLYMPIA, WA 98504  
 OR  
 IF FIXTURE FILING  
 COUNTY AUDITOR OF COUNTY WHERE  
 ORIGINAL FILING WAS MADE

FOR OFFICE USE ONLY.

Images To  
 Be Filed

COPY 3 FILING OFFICER ACKNOWLEDGEMENT

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON  
 WASHINGTON UCC-3

**CHANGE STATEMENT**

This CHANGE STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, Crop Liens and Processor and Preparer statutes.

IF LEASE — The terms debtor and secured party are to be construed as LESSEE AND LESSOR.

IF CONSIGNMENT — The terms debtor and secured party are to be construed as LESSEE AND LESSOR.

IF CROP LIEN — The terms debtor and secured party are to be construed as LIEN DEBTOR and LIEN HOLDER/CLAIMANT.

IF PROCESSOR AND PREPARER LIEN FOR AGRICULTURAL PRODUCTS — The term debtor is to be construed as preparer, conditioner, or processor. The term secured party is to be construed as PRODUCER.

IF A CROP LIEN OR PREPARER OR PROCESSOR LIEN FOR AGRICULTURAL PRODUCTS — The term financing statement shall be construed as STATEMENT EVIDENCING LIEN.

1. DEBTOR(S) (or assignor(s))  
(last name first, and addresses)

2. FOR OFFICE USE ONLY

TRADE NAME:  
(if any)

3. SECURED PARTY(IES) (or assignee(s)) (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES)  
(if applicable)  
(last name first, and addresses)

5. This statement refers to original FINANCING STATEMENT number \_\_\_\_\_ Dated \_\_\_\_\_

7.  CONTINUATION. The original financing statement between the foregoing Debtor(s) and Secured Party(ies), bearing file number above is still effective.
- FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number above have been assigned to the Assignee(s) whose NAME(S) AND ADDRESS(ES) APPEAR ABOVE.
- PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown above to the property DESCRIBED BELOW have been assigned to the Assignee(s) whose NAME(S) AND ADDRESS(ES) APPEAR ABOVE.
- AMENDMENT. Financing statement bearing file number shown above is amended AS SET FORTH BELOW.
- PARTIAL RELEASE. Secured Party(ies) releases the collateral DESCRIBED BELOW from the financing statement bearing file number shown above.
- TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown above.

DESCRIPTION:

B. NUMBER OF ADDITIONAL SHEETS ATTACHED

9.

TYPE NAME(S) OF DEBTOR(S) (or assignor(s))

TYPE NAME(S) OF SECURED PARTY(IES) (or assignee(s))

SIGNATURE(S) OF DEBTOR(S) (or assignor(s))  
(Required if amendment)

SIGNATURE(S) OF SECURED PARTY(IES) (or assignee(s))

10. RETURN ACKNOWLEDGEMENT COPY TO:

FILE WITH:  
UNIFORM COMMERCIAL CODE DIVISION  
DEPARTMENT OF LICENSING  
PO. BOX 9660  
OLYMPIA, WA 98504  
OR  
IF FIXTURE FILING,  
COUNTY AUDITOR OF COUNTY WHERE  
ORIGINAL FILING WAS MADE

FOR OFFICE USE ONLY.

Image to  
Be Filled

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON  
WASHINGTON UCC 3

COPY 4 FILE COPY DEBTOR

This CHANGE STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE. Crop Liens and Processor and Preparer statutes.  
 IF LEASE — The terms debtor and secured party are to be construed as LESSEE AND LESSOR.  
 IF CUNSIGNMENT — The terms debtor and secured party are to be construed as LESSEE AND LESSOR.  
 IF CROP LIEN — The terms debtor and secured party are to be construed as LIEN DEBTOR and LIEN HOLDER/CLAIMANT.  
 IF PROCESSOR AND PREPARER LIEN FOR AGRICULTURAL PRODUCTS — The term debtor is to be construed as preparer, conditioner, or processor. The term secured party is to be construed as PRODUCER.  
 IF A CROP LIEN OR PREPARER OR PROCESSOR LIEN FOR AGRICULTURAL PRODUCTS — The term financing statement shall be construed as STATEMENT EVIDENCING LIEN.

1. DEBTOR(S) (or assignor(s))  
 (last name first, and address(es))

2. FOR OFFICE USE ONLY

TRADE NAME:  
 (if any)

3. SECURED PARTY(IES) (or assignee(s))  
 (name and address)

4. ASSIGNEE(S) OF SECURED PARTY(IES)  
 (if applicable)  
 (last name first, and address(es))

5. This statement refers to original FINANCING STATEMENT number \_\_\_\_\_

Dated \_\_\_\_\_

7.  CONTINUATION. The original financing statement between the foregoing Debtor(s) and Secured Party(ies), bearing file number above is still effective.  
 FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number above have been assigned to the Assignee(s) whose NAME(S) AND ADDRESS(ES) APPEAR ABOVE.  
 PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown above to the property DESCRIBED BELOW have been assigned to the Assignee(s) whose NAME(S) AND ADDRESS(ES) APPEAR ABOVE.  
 AMENDMENT. Financing statement bearing file number shown above is amended AS SET FORTH BELOW.  
 PARTIAL RELEASE. Secured Party(ies) releases the collateral DESCRIBED BELOW from the financing statement bearing file number shown above.  
 TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown above.

DESCRIPTION:

B. NUMBER OF ADDITIONAL SHEETS ATTACHED

9.

TYPE NAME(S) OF DEBTOR(S) (or assignor(s))

TYPE NAME(S) OF SECURED PARTY(IES) (or assignee(s))

SIGNATURE(S) OF DEBTOR(S) (or assignor(s))  
 (Required if amendment)

SIGNATURE(S) OF SECURED PARTY(IES) (or assignee(s))

10. RETURN ACKNOWLEDGEMENT COPY TO:

FILE WITH:  
 UNIFORM COMMERCIAL CODE DIVISION  
 DEPARTMENT OF LICENSING  
 P.O. BOX 9560  
 OLYMPIA, WA 98504  
 OR  
 IF FIXTURE FILING  
 COUNTY AUDITOR OF COUNTY WHERE  
 ORIGINAL FILING WAS MADE

FOR OFFICE USE ONLY

Images To  
 Be Filled

COPY 5 FILE COPY SECURED PARTY

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON  
 WASHINGTON UCC 3

**PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES**

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Liens chapter 60.13 RCW.

## 1. DEBTOR(S) (see instruction #2)

PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_

BUSINESS (legal business name and address) FEIN: \_\_\_\_\_

## 2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA: \_\_\_\_\_

## 3. SECURED PARTY(IES) (name and address)



5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only.  
Original filing number \_\_\_\_\_ Dated \_\_\_\_\_

6. FEES: A \$4.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$7.00.

NUMBER OF ADDITIONAL SHEET(S) ATTACHED: \_\_\_\_\_

## 7. Please check one or more of the following actions:

- CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective.
- FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8.
- PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5.
- TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.

## 8. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8 1/2" x 11" sheet(s) if needed.)

## 9. DEBTOR NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF DEBTOR(S)

## 10. SECURED PARTY NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF SECURED PARTY(IES)

## 11. RETURN ACKNOWLEDGMENT COPY TO:



## 12. FILE WITH:

UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

## 13. FOR OFFICE USE ONLY:

Images To  
Be Filmed

FORM APPROVED FOR USE IN THE  
STATE OF WASHINGTON (R/12/88)

**PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES**

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Liens chapter 60.13 RCW.

## 1. DEBTOR(S) (see instruction #2)

PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_  
 BUSINESS (legal business name and address) FEIN: \_\_\_\_\_

## 2. FOR OFFICE USE ONLY—DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA:

## 3. SECURED PARTY(IES) (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable  
(name and address)

5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only.  
Original filing number \_\_\_\_\_ Dated \_\_\_\_\_

6. FEES: A \$4.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$7.00.

NUMBER OF ADDITIONAL SHEET(S) ATTACHED: \_\_\_\_\_

7. Please check one or more of the following actions:

- CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective.
- FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
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- AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8.
- PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5.
- TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.

8. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8½" x 11" sheet(s) if needed.)

## 9. DEBTOR NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF DEBTOR(S)

## 10. SECURED PARTY NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF SECURED PARTY(IES)

## 11. RETURN ACKNOWLEDGMENT COPY TO:

## 12. FILE WITH:

UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 8660  
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

## 13. FOR OFFICE USE ONLY:

Images To  
Be Filmed

FORM APPROVED FOR USE IN THE  
STATE OF WASHINGTON (R/12/88)

**PLEASE TYPE FORM—IF AN ERROR IS MADE, CORRECT ALL COPIES**

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Lien chapter 60.13 RCW.

|   |   |
|---|---|
| 1. DEBTOR(S) (see instruction #2)<br><input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____<br><input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____ | 2. FOR OFFICE USE ONLY—DO NOT WRITE IN THIS BOX |
| TRADE NAME, DBA, AKA: _____   |   |

|  |  |
|--|--|
| 3. SECURED PARTY(IES) (name and address)<br><br><input type="checkbox"/><br><br><input type="checkbox"/><br><br><input type="checkbox"/> | 4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable<br>(name and address)<br><br><input type="checkbox"/><br><br><input type="checkbox"/><br><br><input type="checkbox"/> |
|--|--|

5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only.  
Original filing number: \_\_\_\_\_ Dated: \_\_\_\_\_
6. FEES: A \$4.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$7.00.  
NUMBER OF ADDITIONAL SHEET(S) ATTACHED: \_\_\_\_\_
7. Please check one or more of the following actions:
- CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective.
  - FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
  - PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
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  - PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5.
  - TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.
8. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8 1/2" x 11" sheet(s) if needed.)

|  |  |
|--|--|
| 9. DEBTOR NAME(S) AND SIGNATURE(S)<br><br>TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1<br><br>SIGNATURE(S) OF DEBTOR(S)<br><br>SIGNATURE(S) OF DEBTOR(S) | 10. SECURED PARTY NAME(S) AND SIGNATURE(S)<br><br>TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4<br><br>SIGNATURE(S) OF SECURED PARTY(IES)<br><br>SIGNATURE(S) OF SECURED PARTY(IES) |
|--|--|

|  |   |
|--|---|
| 11. RETURN ACKNOWLEDGMENT COPY TO:<br><br><input type="checkbox"/><br><br><input type="checkbox"/><br><br><input type="checkbox"/> | 12. FILE WITH:<br><br><b>UNIFORM COMMERCIAL CODE<br/>DEPARTMENT OF LICENSING<br/>P.O. BOX 9660<br/>OLYMPIA, WA 98504</b><br><br><b>MAKE CHECKS PAYABLE TO THE<br/>DEPARTMENT OF LICENSING</b><br><br>13. FOR OFFICE USE ONLY:<br><br>Images To<br>Be Filmed <input type="checkbox"/><br><br>FORM APPROVED FOR USE IN THE<br>STATE OF WASHINGTON (R/12/88) |
|--|---|

**PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES**

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Liens chapter 60.13 RCW.

## 1. DEBTOR(S) (see instruction #2)

PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_

BUSINESS (legal business name and address) FEIN: \_\_\_\_\_

## 2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA:

## 3. SECURED PARTY(IES) (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable  
(name and address)

5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only.  
Original filing number \_\_\_\_\_ Dated \_\_\_\_\_

6. FEES: A \$4.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$7.00.

NUMBER OF ADDITIONAL SHEET(S) ATTACHED: \_\_\_\_\_

7. Please check one or more of the following actions:

- CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective.
- FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8.
- PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5.
- TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.

8. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8 1/2" x 11" sheet(s) if needed.)

## 9. DEBTOR NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF DEBTOR(S)

## 10. SECURED PARTY NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF SECURED PARTY(IES)

## 11. RETURN ACKNOWLEDGMENT COPY TO:

COPY 4 – FILE COPY – SECURED PARTY

WASHINGTON UCC-3

## 12. FILE WITH:

UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

## 13. FOR OFFICE USE ONLY:

Images To  
Be Filmed

FORM APPROVED FOR USE IN THE  
STATE OF WASHINGTON (R/12/88)

((INSTRUCTIONS UCC-3)

1. PLEASE TYPE THIS FORM.

2. If the space provided for any item on the form is inadequate, the item should be identified and continued on additional sheets, preferably 8 1/2" X 11". The name of the debtor should appear as the first item on each additional sheet. Only one copy of such additional sheets need be presented to the filing officer with the two copies of the financing statement. Indicate the number of sheets attached in the space provided.
3. At the time of filing, the filing officer will return copy (3) as an acknowledgment. Indicate in box 10 to whom the acknowledgment should be returned.
4. If the transaction indicated requires a description or explanation, that description or explanation must appear in box 7.
5. Typed name of debtor and/or secured party must appear with signature.
6. Except for terminations, one or more transactions may be accomplished by a single UCC-3 filing. If more than one transaction is indicated on this form, send appropriate fee for each transaction. Terminations must be submitted on a separate UCC-3.
7. The filing fee for a continuation, assignment, amendment, or release on a standard form is \$4.00. The fee is \$7.00 if any other form is used or if any additional sheets or documents are attached to the standard UCC-3. Proper filing fees must accompany each form. There is no fee for a termination statement.
8. DO NOT WRITE IN BOX 2.
9. REMOVE and retain copies (4) and (5). SEND copies (1), (2), and (3) to the address on the front of the form.

AMENDATORY SECTION (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

WAC 308-400-047 UCC-4 CROP LIENS AND PROCESSOR AND PREPARER LIENS FOR AGRICULTURAL AND COMMERCIAL FISH PRODUCTS FILING FORM. Effective January 1, ((1987)) 1990, the following form shall be the standard UCC-4 form prescribed by the department of licensing.

LIEN FILING INSTRUCTIONS  
UCC-4

1. COMPLETION OF FORM: Please type or print the information presented on this form clearly and accurately. If you make an error, be certain to correct all copies. Information from the copies will be microfilmed and recorded exactly as you present it.
2. LIEN DEBTOR AND LIEN HOLDER/CLAIMANT: The legal name of the debtor, secured party or assignee is required. When the debtor name is a personal name, check the personal box and enter the Social Security number. If the debtor name is a business name, check the business box and enter the FEIN. If the filing is being made under both personal and business names, both boxes should be checked. Trade names, DBAs or AKAs (including nicknames), may also be entered in box 1. If more than one debtor is listed please follow the same procedure for each named debtor.
3. ATTACHMENTS: If space provided in any box is inadequate, type or print the words "See Attachments" in the box and continue the information on additional 8 1/2" by 11" sheets. Enter the total number of attached sheets in box 7. Include copies of the attached sheets only if you want copies of the attachments returned. If any attachments are added to the filing form, the fee is \$7.00.
4. MAILING: Send copies 1 and 2 to the address provided in box 10. Do not remove the carbons between these pages. Use an envelope 9 1/2" x 6 1/2" to prevent mutilation during the automated mail opening process.
5. TERMINATION: To terminate a filing, send the acknowledgment (copy 2) back to the Department of Licensing with the termination statement signed by the lien holder/claimant of record. The UCC-3 form also may be used as a termination statement. Fees are not charged for the termination of liens. If the name of the secured party or the assignee (if an assignment has been made) is a business name, then the exact name of the business must appear directly above the signature of the person representing the secured party.
6. FILING FEES: The fee for filing a UCC-4 (R/12/88) is \$4.00. If any other form is used or additional sheet(s) have been attached, the filing fee is \$7.00. Filings will not be recorded unless the proper fee is sent. Checks should be made payable to the Department of Licensing.

PLEASE TYPE OR PRINT CLEARLY — Names and addresses will be filed exactly as they appear on this form.

This statement is presented for filing a crop lien pursuant to chapter 60.11 RCW, and a processor and preparer lien for agricultural products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below.

IF PROCESSOR AND PREPARER LIEN FOR AGRICULTURAL PRODUCTS — The term lien debtor is to be construed as a processor, preparer, or conditioner. The lien holder claimant is to be construed as the producer.

1. LIEN DEBTOR(S): NAME (last, first, middle) AND ADDRESS

FOR OFFICE USE ONLY

TRADE NAME: (dba, aka)

2. LIEN HOLDER/CLAIMANT: NAME AND ADDRESS

3. ASSIGNEE(S) of SECURED PARTY(IES)  
(if applicable)  
(last name first, and addresses)

4. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed

NOTE: You may attach additional sheets to provide more information where space is limited.  
(A non-standard fee will be charged.)

5. NUMBER OF ADDITIONAL SHEETS:

6. TYPE OF LIEN:

LANDLORD

SUPPLIER

PREPARER

PROCESSOR

WASHINGTON UCC-4

COPY 1 — FILING OFFICER — INDEX

**PLEASE TYPE OR PRINT CLEARLY** — Names and addresses will be filed exactly as they appear on this form.  
This statement is presented for filing a crop lien pursuant to chapter 60.11 RCW, and a processor and preparer lien for agricultural products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below.  
**IF PROCESSOR AND PREPARER LIEN FOR AGRICULTURAL PRODUCTS** — The term lien debtor is to be construed as a processor, preparer, or conditioner. The lien holder claimant is to be construed as the producer.

|  |  |  |
|--|--|--|
| 1. LIEN DEBTOR(S): NAME (last, first, middle) AND ADDRESS  |  | FOR OFFICE USE ONLY  |
| TRADE NAME: (dba, aka)   |  |  |
| 2. LIEN HOLDER/CLAIMANT: NAME AND ADDRESS  |  | 3. ASSIGNEE(S) OF SECURED PARTY(IES)<br>(if applicable)<br>(last name first, and addresses)  |
| 4. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed  |  | NOTE: You may attach additional sheets to provide more information where space is limited.<br>(A non-standard fee will be charged.)  |
| 5. NUMBER OF ADDITIONAL SHEETS:<br>\$  |  |  |
| 6. TYPE OF LIEN:<br><input type="checkbox"/> LANDLORD <input type="checkbox"/> SUPPLIER <input type="checkbox"/> PREPARER <input type="checkbox"/> PROCESSOR   |  |  |
| 7. LANDLORD/SUPPLIER: Describe the LABOR SERVICES, MATERIALS or SUPPLIES covered by this statement.<br>PREPARER/PROCESSOR: Describe the AGRICULTURAL PRODUCT to be charged with the lien. Include the amount demanded after deducting credits and offsets. |  |  |
| 8. RETURN ACKNOWLEDGEMENT COPY TO: (name and address)  |  | FILE WITH:<br>UNIFORM COMMERCIAL CODE DIVISION<br>DEPARTMENT OF LICENSING<br>P.O. BOX 9660<br>OLYMPIA, WA 98504                      |
|  |  | FOR OFFICE USE ONLY  |
|  |  | IMAGES TO BE FILMED <input type="checkbox"/>   |
| 9. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP  |  |  |
| COUNTY IN WHICH CROP IS GROWN: <input type="text"/>  |  |  |
| 10. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS:<br>I declare that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice evidencing the lien   |  | 11. DATE PAYMENT IS DUE  |
|  |  | 12. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER  |
|  |  | 13. SIGNATURE OF LIEN HOLDER CLAIMANT OR PRODUCER<br>I verify that the information contained on this statement is true and accurate. |

PLEASE TYPE OR PRINT CLEARLY — Names and addresses will be filed exactly as they appear on this form.  
 This statement is presented for filing a crop lien pursuant to chapter 60.11 RCW, and a processor and preparer lien for agricultural products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below.  
**IF PROCESSOR AND PREPARER LIEN FOR AGRICULTURAL PRODUCTS** — The term **lien debtor** is to be construed as a processor, preparer, or conditioner.  
 The **lien holder claimant** is to be construed as the producer.

|  |            |  |
|--|------------|--|
| 1. LIEN DEBTOR(S): NAME ( <i>last, first, middle</i> ) AND ADDRESS   |            | FOR OFFICE USE ONLY  |
| TRADE NAME: (dba, aka)   |            |  |
| 2. LIEN HOLDER/CLAIMANT: NAME AND ADDRESS  |            | 3. ASSIGNEE(S) OR SECURED PARTY(IES)<br><small>(if applicable)<br/> <i>(last name first, and address(es))</i></small>                              |
| 4. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed  |            | NOTE: You may attach additional sheets to provide more information where space is limited.<br><small>(A non-standard fee will be charged.)</small> |
| 5. NUMBER OF ADDITIONAL SHEETS:  |            |  |
| 6. TYPE OF LIEN:<br><input type="checkbox"/> LANDLORD <input type="checkbox"/> SUPPLIER <input type="checkbox"/> PREPARER <input type="checkbox"/> PROCESSOR   |            |  |
| 7. LANDLORD/SUPPLIER: Describe the LABOR SERVICES, MATERIALS or SUPPLIES covered by this statement.<br>PREPARER/PROCESSOR: Describe the AGRICULTURAL PRODUCT to be charged with the lien. Include the amount demanded after deducting credits and offsets. |            |  |
| \$ _____   |            |  |
| 8. RETURN ACKNOWLEDGEMENT COPY TO: (name and address)  |            | FOR OFFICE USE ONLY  |
| 9. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP  |            |  |
| COUNTY IN WHICH CROP IS GROWN: _____   |            |  |
| LIEN TERMINATION STATEMENT OR STATEMENT OF DISCHARGE: The LIEN HOLDER(S) certifies that the LIEN HOLDER(S) no longer claims an interest under the CROP LIEN OR PREPARER/PROCESSOR STATEMENT bearing the file number shown above.                           |            |  |
| Name _____   | Date _____ | Return to: Uniform Commercial Code Division<br>Department of Licensing<br>P.O. Box 9660<br>Olympia, WA 98504                                       |
| Signature _____  |            |  |
| COPY TO - FILING OFFICER ACKNOWLEDGEMENT   |            | WASHINGTON UCC-4   |

# **Washington State Register, Issue 89-06**

**WSR 89-06-078**

**PLEASE TYPE OR PRINT CLEARLY** — Names and addresses will be filed exactly as they appear on this form.  
This statement is presented for filing a crop lien pursuant to chapter 60.11 RCW, and a processor and preparer lien for agricultural products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below.  
**IF PROCESSOR AND PREPARER LIEN FOR AGRICULTURAL PRODUCTS** -- The term "lien debtor" is to be construed as a processor, preparer, or conditioner.  
The lien holder claimant is to be construed as the producer.

|  |  |  |
|--|--|--|
| 1. LIEN DEBTOR(S): NAME (last, first, middle) AND ADDRESS  |  | FOR OFFICE USE ONLY  |
| TRADE NAME: (dba, aka)   |  |  |
| 2. LIEN HOLDER/CLAIMANT: NAME AND ADDRESS  |  | 3. ASSIGNEE(S) OF SECURED PARTY(IES)<br>(if applicable)<br>(last name, first, and address(es))                                       |
| <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>  |  |  |
| 4. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed  |  | NOTE: You may attach additional sheets to provide more information where space is limited.<br>(A non-standard fee will be charged.)  |
| 5. NUMBER OF ADDITIONAL SHEETS:  |  |  |
| 6. TYPE OF LIEN:   |  |  |
| <input type="checkbox"/> LANDLORD <input type="checkbox"/> SUPPLIER <input type="checkbox"/> PREPARER <input type="checkbox"/> PROCESSOR   |  |  |
| 7. LANDLORD/SUPPLIER: Describe the LABOR SERVICES, MATERIALS or SUPPLIES covered by this statement.<br>PREPARER/PROCESSOR: Describe the AGRICULTURAL PRODUCT to be charged with the lien. Include the amount demanded after deducting credits and offsets. |  |  |
| \$ _____   |  |  |
| 8. RETURN ACKNOWLEDGEMENT COPY TO: (name and address)  |  | FILE WITH:<br>UNIFORM COMMERCIAL CODE DIVISION<br>DEPARTMENT OF LICENSING<br>P.O. BOX 9660<br>OLYMPIA, WA 98504                      |
| <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>  |  | FOR OFFICE USE ONLY<br><br>IMAGES TO BE FILMED <input type="checkbox"/>  |
| 9. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP  |  |  |
| COUNTY IN WHICH CROP IS GROWN: <input type="text"/>  |  |  |
| 10. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS:<br>I declare that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice evidencing the lien.  |  | 11. DATE PAYMENT IS DUE  |
| 12. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER  |  | 13. SIGNATURE OF LIEN HOLDER/CLAIMANT OR PRODUCER<br>I verify that the information contained on this statement is true and accurate. |

**COUNTY IN WHICH CROP IS GROWN:**

**10. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS:**  
I declare that the amount claimed is a true and bona fide existing debt as of the date  
of the filing of the notice, superseding the lien.

of the filing of the notice

12. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER

13. SIGNATURE OF LIEN HOLDER- CLAIMANT OR PRODUCER  
I verify that the information contained on this statement is true and accurate.

~~COPY A FILE COPY - DEBTOR~~

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON  
WASHINGTON UCC-1

**PLEASE TYPE OR PRINT CLEARLY** — Names and addresses will be filed exactly as they appear on this form.  
 This statement is presented for filing a crop lien pursuant to chapter 60.11 RCW, and a processor and preparer lien for agricultural products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below.

**IF PROCESSOR OR PREPARER LIEN FOR AGRICULTURAL PRODUCTS** — The term **lien debtor** is to be construed as a processor, preparer, or conditioner.  
**The lien holder claimant is to be construed as the producer.**

1. LIEN DEBTOR(S): NAME (last, first, middle) AND ADDRESS

FOR OFFICE USE ONLY

TRADE NAME: (dba, aka)

2. LIEN HOLDER/CLAIMANT: NAME AND ADDRESS

3. ASSIGNEE(S) OR SECURED PARTY(IES)  
(if applicable)  
(last name first, and address(es))

4. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed

NOTE: You may attach additional sheets to provide more information where space is limited.  
(A non-standard fee will be charged.)

5. NUMBER OF ADDITIONAL SHEETS:

6. TYPE OF LIEN:

 LANDLORD SUPPLIER PREPARER PROCESSOR

7. LANDLORD/SUPPLIER: Describe the LABOR SERVICES, MATERIALS or SUPPLIES covered by this statement.

PREPARER/PROCESSOR: Describe the AGRICULTURAL PRODUCT to be charged with the lien. Include the amount demanded after deducting credits and offsets.

\$ \_\_\_\_\_

8. RETURN ACKNOWLEDGEMENT COPY TO: (name and address)

FILE WITH:  
UNIFORM COMMERCIAL CODE DIVISION  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

FOR OFFICE USE ONLY

IMAGES TO  
BE FILMED 

9. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP

COUNTY IN WHICH CROP IS GROWN: 

10. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS:

I declare that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice evidencing the lien.

12. TYPE NAME OF THE LIEN HOLDER-CLAIMANT OR PRODUCER

11. DATE PAYMENT IS DUE

13. SIGNATURE OF LIEN HOLDER CLAIMANT OR PRODUCER

I verify that the information contained on this statement is true and accurate.

**PLEASE TYPE FORM—IF AN ERROR IS MADE, CORRECT ALL COPIES**

This UCC-4 LIEN STATEMENT is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below. If the form is used to secure a Processor and Preparer Lien for Agricultural or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.

**1. LIEN DEBTOR(S) (see instruction #2)**

PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_

BUSINESS (legal business name and address) FEIN: \_\_\_\_\_

**2. FOR OFFICE USE ONLY—DO NOT WRITE IN THIS BOX**

TRADE NAME, DBA, AKA:

**3. LIEN HOLDER/CLAIMANT (name and address)****4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable  
(name and address)****5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed:**

6. TYPE OF LIEN:  LANDLORD  SUPPLIER  PREPARER  PROCESSOR  CONDITIONER

7. FEES: Filing fee . . . \$4.00 Filing fee with attachments . . . \$7.00 Number of additional sheets presented: \_\_\_\_\_

8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8½" x 11" sheet(s) if needed.)

**9. RETURN ACKNOWLEDGMENT COPY TO: (name and address)****10. FILE WITH:**

UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

**11. FOR OFFICE USE ONLY IMAGES TO BE FILMED** **12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: (Attach additional 8½" x 11" sheet(s) if needed)**COUNTY IN WHICH CROP IS GROWN: **13. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS:**  
I declare that the amount claimed is a true and bonafide existing debt as of the date of the filing or the notice evidencing the lien.**14. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER exactly as entered in box 3.****15. DATE PAYMENT IS DUE****16. SIGNATURE OF LIEN HOLDER/CLAIMANT OR PRODUCER**  
I verify that the information contained on this statement is true and accurate.

**PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES**

This **UCC-4 LIEN STATEMENT** is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below. If the form is used to secure a Processor and Preparer Lien for Agricultural or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.

## 1. LIEN DEBTOR(S)

PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_  
 BUSINESS (legal business name and address) FEIN: \_\_\_\_\_

## 2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

## TRADE NAME, DBA, AKA:

## 3. LIEN HOLDER/CLAIMANT (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable  
(name and address)

## 5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed:

6. TYPE OF LIEN:  LANDLORD  SUPPLIER  PREPARER  PROCESSOR  CONDITIONER

7. FEES: Filing fee . . . \$4.00 Filing fee with attachments . . . \$7.00 Number of additional sheets presented: \_\_\_\_\_

8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8 1/2" x 11" sheet(s) if needed.)

\$ \_\_\_\_\_

## 9. RETURN ACKNOWLEDGMENT COPY TO: (name and address)

## 10. FILE WITH:

UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

11. FOR OFFICE USE ONLY IMAGES TO BE FILMED 

## 12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: (Attach additional 8 1/2" x 11" sheet(s) if needed)

COUNTY IN WHICH CROP IS GROWN: 

LIEN TERMINATION STATEMENT OR STATEMENT OF DISCHARGE: The LIEN HOLDER(S) certifies that the LIEN HOLDER(S) no longer claims an interest under the CROP LIEN, PREPARER, PROCESSOR OR CONDITIONER LIEN bearing the file number shown above.

Date \_\_\_\_\_

PRINT OR TYPE NAME AS IT APPEARS IN BOX 3 OR 4. (see instruction #5)

Signature \_\_\_\_\_

COPY 2 FILING OFFICE – ACKNOWLEDGMENT

WASHINGTON UCC-4 FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)

**PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES**

This **UCC-4 LIEN STATEMENT** is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below. If the form is used to secure a Processor and Preparer Lien for Agricultural or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.

## 1. LIEN DEBTOR(S) (see instruction #2)

PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_  
 BUSINESS (legal business name and address) FEIN: \_\_\_\_\_

## 2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA:

## 3. LIEN HOLDER/CLAIMANT (name and address)

4. ASSIGNEE(S) or SECURED PARTY(IES) if applicable  
(name and address)

## 5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed:

6. TYPE OF LIEN:  LANDLORD  SUPPLIER  PREPARER  PROCESSOR  CONDITIONER

7. FEES: Filing fee . . . \$4.00 Filing fee with attachments . . . \$7.00 Number of additional sheets presented: \_\_\_\_\_

8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8½" x 11" sheet(s) if needed.)

\$ \_\_\_\_\_

## 9. RETURN ACKNOWLEDGMENT COPY TO: (name and address)



## 10. FILE WITH:

UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

11. FOR OFFICE USE ONLY IMAGES TO BE FILMED 

## 12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: (Attach additional 8½" x 11" sheet(s) if needed)

COUNTY IN WHICH CROP IS GROWN: 

## 13. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS:

I declare that the amount claimed is a true and bona fide existing debt as of the date of the filing or the notice evidencing the lien.

## 14. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER exactly as entered in box 3.

## 15. DATE PAYMENT IS DUE

16. SIGNATURE OF LIEN HOLDER/CLAIMANT OR PRODUCER  
I verify that the information contained on this statement is true and accurate.

**PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES**

This **UCC-4 LIEN STATEMENT** is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below.  
If the form is used to secure a Processor and Preparer Lien for Agricultural or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.

|  |   |
|--|---|
| <p><b>1. LIEN DEBTOR(S) (see instruction #2)</b></p> <p><input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____</p> <p><input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____</p> | <p><b>2. FOR OFFICE USE ONLY—DO NOT WRITE IN THIS BOX</b></p> |
|--|---|

**TRADE NAME, DBA, AKA:**

|   |   |
|---|---|
| <p><b>3. LIEN HOLDER/CLAIMANT</b> (<i>name and address</i>)</p> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/> </div> | <p><b>4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable</b><br/> <i>(name and address)</i></p> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/> </div> |
|---|---|

**5. LANDLORD/SUPPLIER:** Date of commencement of performance for which the lien is claimed: \_\_\_\_\_

6. TYPE OF LIEN:  LANDLORD  SUPPLIER  PREPARER  PROCESSOR  CONDITIONER

**7. FEES:** Filing fee . . . \$4.00 Filing fee with attachments . . . \$7.00 Number of additional sheets presented:

**8. LANDLORD/SUPPLIER:** Describe the labor, services, materials or supplies covered by this statement. **PREPARER/PROCESSOR/CONDITIONER:** Describe the agricultural or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8 1/2" x 11" sheet(s) if needed.)

|  |   |
|--|---|
| <p><b>9. RETURN ACKNOWLEDGMENT COPY TO:</b> <i>(name and address)</i></p> <p>[ ]</p> <p>[ ]</p> <p>[ ]</p> | <p>\$ _____</p> <p><b>10. FILE WITH:</b></p> <p><b>UNIFORM COMMERCIAL CODE<br/>DEPARTMENT OF LICENSING<br/>P.O. BOX 9660<br/>OLYMPIA, WA 98504</b></p> <p><b>MAKE CHECKS PAYABLE TO THE<br/>DEPARTMENT OF LICENSING</b></p> <p><b>11. FOR OFFICE USE ONLY</b> IMAGES TO<br/>BE FILMED</p> |
|--|---|

**12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: (Attach additional 8 1/2" x 11" sheet(s) if needed)**

COUNTY IN WHICH CROP IS GROWN:

|  |  |
|--|--|
| 13. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS:<br>I declare that the amount claimed is a true and bona fide existing debt as of the date<br>of the filing or the notice evidencing the lien. | 14. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER exactly<br>as entered in box 3.  |
| 15. DATE PAYMENT IS DUE  | 16. SIGNATURE OF LIEN HOLDER/CLAIMANT OR PRODUCER<br>I verify that the information contained on this statement is true and accurate. |

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)  
WASHINGTON UCC-4

((INSTRUCTIONS UCC-4))

1. PLEASE TYPE OR PRINT: The information on this form will be filed exactly as you present it. Complete items 1 through 11 clearly and accurately. If you correct an error, be certain to correct all copies.
2. LIEN DEBTOR: The name of the lien debtor must be entered as follows—last name, comma, first name, comma, middle name or initial.
3. ATTACHMENTS: When the space on the form is inadequate, continue your information on additional 8 1/2 by 11 sheets. Enter the name of the lien debtor in the same manner as described in 2, as the first item on each additional page and indicate the item number on the form which is being continued. Only one copy of each attachment is necessary. Submit the NONSTANDARD FEE.
4. ACKNOWLEDGEMENT: The filing officer will return copy 3 when the statement is filed. Indicate where you wish this acknowledgement to be sent in the box within item number 8.
5. FILING FEES: Proper filing fees must accompany each filing.

## STANDARD FORM:

WASHINGTON UCC-4 FORM ..... \$4.00

## NONSTANDARD FORMS:

WASHINGTON UCC-4 FORM WITH  
ATTACHMENTS, OR OTHER FORMS ..... \$7.00

6. MAILING: Send copies 1, 2, and 3 to the address on the front of this form. Retain copies 4 and 5.

## TERMINATION STATEMENT

To terminate a filing send the acknowledgement, copy 3, back to the filing officer with the termination statement signed by the lien holder/claimant of record. The UCC-3 form also may be used as a termination statement. Fees are not charged for the termination of filings.

If the name of the secured party or the assignee (if an assignment has been made) is other than the name of an individual, then the termination statements require that the exact name of the secured party or the assignee must appear directly above the signature representing the secured parties.

**AMENDATORY SECTION** (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

WAC 308-400-048 UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION. Effective ((July 1, 1982)) January 1, 1990, the following form shall be the standard UCC-11R Form prescribed by the department of licensing:

**SEARCH REQUEST INSTRUCTIONS**  
**UCC-11R**

1. **COMPLETION OF FORM:** Please type or print the information presented on this form clearly and accurately. The search will be conducted using the exact spelling of the debtor name as shown in box 3. If you make an error, be certain to correct all copies.  
It would also be helpful to include the Social Security number or the federal employer identification number of the debtor in the space provided in box 3.
2. **ONE DEBTOR NAME PER FORM:** Only the first debtor name on this form will be searched. A separate UCC-11R must be submitted for each debtor name. Please check the appropriate square in box 3 to indicate whether the debtor name is a personal name or a business name.  
A husband and wife are considered to be two individual debtors and require separate search request forms. DBAs, AKAs, FKAs and trade names are considered separate debtors and require separate search request forms.
3. **DEBTOR NAME:** Correct spelling of the debtor's name is important. A deviation in spelling or an incomplete name may result in failure to disclose the desired information. If unsure of whether the debtor uses other names or other spellings, requestors may wish to submit an additional search request for each probable name or spelling.
4. **ADDITIONAL ADDRESSES OF THE DEBTOR:** To search the debtor name at any addresses within the city you designate, enter the name of the city. To search the debtor name at any addresses within the county you designate, enter the county name. To search the debtor name at any possible address, check ALL. If a debtor has a post office box in addition to a street address, please list both.
5. **MAILING:** Send copies 1 and 2 to the address shown in box 7. Retain copy 3 for your records.
6. **SEARCH FEES:** The proper filing fees must accompany each search request.

|   |        |
|---|--------|
| CERTIFICATE OF INFORMATION .....            | \$4.00 |
| CERTIFICATE OF INFORMATION AND COPIES ..... | \$8.00 |

PLEASE TYPE OR PRINT FORM

## REQUEST FOR CERTIFICATE OF INFORMATION

SEE REVERSE SIDE FOR INSTRUCTIONS

|   |  |   |
|---|--|---|
| 1. OFFICE USE ONLY  |  | 2. DEBTOR NAME (Last name, first name, middle name or initial. List one debtor name per request.)                                       |
|   |  | 2A. DEBTOR ADDRESS (List additional addresses in box 2B.)   |
| 3. REQUESTING PARTY (Name and address)  |  | 2B. ADDITIONAL DEBTOR ADDRESSES (You may specify additional addresses or enter ALL addresses to request all addresses for this debtor.) |
| 4. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED  |  |   |
| TYPE OF SEARCH DESIRED: At least one box must be checked.   |  | TYPE OF INFORMATION REQUESTED At least one box must be checked.   |
| <input type="checkbox"/> All current UCC filings or liens for the debtor named above, at the address(es) shown in box(es) 2A and/or 2B, on the date of receipt of this request. |  | <input type="checkbox"/> Certificate of information only. \$4.00  |
| <input type="checkbox"/> Any current UCC filings or liens from _____ to _____   |  | <input type="checkbox"/> Certificate of information and true and exact copies. \$8.00   |
| <input type="checkbox"/> Federal tax liens only — partnership and corporation.  |  |   |
| <input type="checkbox"/> Specific filing numbers listed below in box 5.   |  | CERTIFIED SEARCH RESULTS WILL BE ATTACHED TO THIS FORM UPON THE COMPLETION OF THIS SEARCH.  |
| 5. SPECIFICALLY REQUESTED FILE NUMBER(S)  |  |   |

THE DEPARTMENT OF LICENSING HEREBY DISCLAIMS RESPONSIBILITY IN THIS RECORD SEARCH AND CERTIFICATION FOR OTHER THAN THE SPECIFICALLY NAMED DEBTOR AT THE EXACT ADDRESS(ES) CITED IN YOUR REQUEST. IF YOU BELIEVE THERE MAY BE ADDITIONAL NAMES, YOU MAY WISH TO SUBMIT ADDITIONAL REQUEST FORMS AND FEES.

|         |                                  |
|---------|----------------------------------|
| 6. DATE | 7. SIGNATURE OF REQUESTING PARTY |
|---------|----------------------------------|

MAKE CHECKS PAYABLE TO:  
DEPARTMENT OF LICENSING  
FORWARD TO: UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 3660  
OLYMPIA, WA 98504

NOTE: Records of crop related liens and federal liens against the personal property of corporations and partnerships are now filed with the Department of Licensing. Searches of both state and county records should be made during the periods of transition. See Chapters 60.11, 60.13 and 60.68 RCW.

COPY FILING OFFICER

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON

WASHINGTON UCC-11R

| REQUEST FOR CERTIFICATE OF INFORMATION  |  | SEE REVERSE SIDE FOR INSTRUCTIONS   |
|---|--|---|
| PLEASE TYPE OR PRINT FORM   |  |   |
| 1. OFFICE USE ONLY  |  | 2. DEBTOR NAME (Last name, first name, middle name or initial. List one debtor name per request.)   |
|   |  | 2A. DEBTOR ADDRESS (List additional addresses in box 2B.)   |
| 3. REQUESTING PARTY (Name and address)  |  | 2B. ADDITIONAL DEBTOR ADDRESS(ES) (You may specify additional addresses or enter ALL addresses to request all addresses for this debtor.) |
| 4. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED  |  |   |
| TYPE OF SEARCH DESIRED: At least one box must be checked.   |  | TYPE OF INFORMATION REQUESTED At least one box must be checked.   |
| <input type="checkbox"/> All current UCC filings or liens for the debtor named above, at the address(es) shown in boxes 2A and/or 2B, on the date of receipt of this request. |  | <input type="checkbox"/> Certificate of information only. \$4.00  |
| <input type="checkbox"/> Any current UCC filings or liens from _____ to _____.  |  | <input type="checkbox"/> Certificate of information and true and exact copies. \$8.00   |
| <input type="checkbox"/> Federal tax liens only — partnership and corporation.  |  |   |
| <input type="checkbox"/> Specific filing numbers listed below in box 5.   |  | CERTIFIED SEARCH RESULTS WILL BE ATTACHED TO THIS FORM UPON THE COMPLETION OF THIS SEARCH.  |
| 5. SPECIFICALLY REQUESTED FILE NUMBER(S)  |  |   |

THE DEPARTMENT OF LICENSING HEREBY DISCLAIMS RESPONSIBILITY IN THIS RECORD SEARCH AND CERTIFICATION FOR OTHER THAN THE SPECIFICALLY NAMED DEBTOR AT THE EXACT ADDRESS(ES) CITED IN YOUR REQUEST. IF YOU BELIEVE THERE MAY BE ADDITIONAL NAMES, YOU MAY WISH TO SUBMIT ADDITIONAL REQUEST FORMS AND FEES.

|         |                                  |
|---------|----------------------------------|
| 6. DATE | 7. SIGNATURE OF REQUESTING PARTY |
|---------|----------------------------------|

MAKE CHECKS PAYABLE TO:  
**DEPARTMENT OF LICENSING**  
 FORWARD TO: **UNIFORM COMMERCIAL CODE  
 DEPARTMENT OF LICENSING  
 P.O. BOX 9660  
 OLYMPIA, WA 98504**

NOTE: Records of crop related liens and federal liens against the personal property of corporations and partnerships are now filed with the Department of Licensing. Searches of both state and county records should be made during the periods of transition. See Chapters 60.11, 60.13 and 60.68 RCW.

COPY TO FILING OFFICER

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON

WASHINGTON UCC-11R

PLEASE TYPE OR PRINT FORM

## REQUEST FOR CERTIFICATE OF INFORMATION

SEE REVERSE SIDE FOR INSTRUCTIONS

## 1. OFFICE USE ONLY

2. DEBTOR NAME (Last name, first name, middle name or initial. List one debtor name per request.)

2A. DEBTOR ADDRESS (List additional addresses in box 2B.)

## 3. REQUESTING PARTY (Name and address)

2B. ADDITIONAL DEBTOR ADDRESS(ES) (You may specify additional addresses or enter ALL addresses to request all addresses for this debtor.)

## 4. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED

TYPE OF SEARCH DESIRED: At least one box must be checked.

All current UCC filings or liens for the debtor named above, at the address(es) shown in boxes 2A and/or 2B, on the date of receipt of this request.

Any current UCC filings or liens from \_\_\_\_\_ to \_\_\_\_\_

Federal tax liens only -- partnership and corporation.

Specific filing numbers listed below in box 5.

TYPE OF INFORMATION REQUESTED At least one box must be checked.

|   |
|---|
| <input type="checkbox"/> Certificate of information only. \$4.00                      |
| <input type="checkbox"/> Certificate of information and true and exact copies. \$8.00 |

CERTIFIED SEARCH RESULTS WILL BE ATTACHED TO THIS FORM UPON THE COMPLETION OF THIS SEARCH.

## 5. SPECIFICALLY REQUESTED FILE NUMBER(S)

THE DEPARTMENT OF LICENSING HEREBY DISCLAIMS RESPONSIBILITY IN THIS RECORD SEARCH AND CERTIFICATION FOR OTHER THAN THE SPECIFICALLY NAMED DEBTOR AT THE EXACT ADDRESS(ES) CITED IN YOUR REQUEST. IF YOU BELIEVE THERE MAY BE ADDITIONAL NAMES, YOU MAY WISH TO SUBMIT ADDITIONAL REQUEST FORMS AND FEES.

6. DATE

7. SIGNATURE OF REQUESTING PARTY

MAKE CHECKS PAYABLE TO:  
DEPARTMENT OF LICENSING  
FORWARD TO: UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P. O. BOX 9660  
OLYMPIA, WA 98504

NOTE: Records of crop related liens and federal liens against the personal property of corporations and partnerships are now filed with the Department of Licensing. Searches of both state and county records should be made during the periods of transition. See Chapters 60.11, 60.13 and 60.68 RCW.

COPY 3 FILE COPY

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON

WASHINGTON UCC-11R

**UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION**

PLEASE TYPE FORM. IF AN ERROR IS MADE, CORRECT ALL COPIES

**1. OFFICE USE ONLY-DO NOT WRITE IN THIS BOX****3. DEBTOR NAME (list one debtor per request)** PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_ BUSINESS (legal business name and address) FEIN: \_\_\_\_\_**2. REQUESTING PARTY (Name and address)****4. ADDITIONAL DEBTOR ADDRESS(ES) (You may request additional addresses by city or county. All addresses may be requested by checking the ALL box.)**

CITY \_\_\_\_\_

COUNTY \_\_\_\_\_

ALL **5. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED:****TYPE OF SEARCH DESIRED: Check one box only.**

- All current UCC filings and liens for the debtor named above, at the address(es) shown in box(es) 3 and/or 4.
- Any current UCC filings and liens from \_\_\_\_\_ to \_\_\_\_\_.
- Federal tax liens only -- partnership and corporation.
- Specific filing numbers listed below in box 7.

**TYPE OF INFORMATION REQUESTED: Check one box only.**

- |  |        |
|--|--------|
| <input type="checkbox"/> Certificate of Information *                            | \$4.00 |
| <input type="checkbox"/> Certificate of Information * and true and exact copies. | \$8.00 |

\*CERTIFICATE OF INFORMATION CONTAINS FILE NUMBER, FILE DATE, SECURED PARTY NAME AND ADDRESS.

**6. SPECIFICALLY REQUESTED FILE NUMBER(S)**

7. FORWARD TO: UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

**NOTE:** Records of crop related liens and federal liens against the personal property of corporations and partnerships are now filed with the Department of Licensing. Searches of both state and county records should be made during the periods of transition. See Chapters 60.11, 60.13 and 60.68 RCW.

MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

THE DEPARTMENT OF LICENSING HEREBY DISCLAIMS RESPONSIBILITY IN THIS RECORD SEARCH AND CERTIFICATION FOR OTHER THAN THE SPECIFICALLY NAMED DEBTOR AT THE EXACT ADDRESS(ES) CITED IN YOUR REQUEST. SEARCHING A VARIATION OF THE DEBTOR NAME OR ADDITIONAL NAMES REQUIRES SEPARATE REQUEST FORMS AND FEES.

8. SIGNATURE OF REQUESTING PARTY

9. DATE

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)

COPY 1-FILING OFFICER

WASHINGTON UCC-11R

**UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION**

PLEASE TYPE FORM. IF AN ERROR IS MADE, CORRECT ALL COPIES

|   |  |  |
|---|--|--|
| <b>1. OFFICE USE ONLY-DO NOT WRITE IN THIS BOX</b>  |  | <b>3. DEBTOR NAME (list one debtor per request)</b><br><input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____<br><input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____  |
| <b>2. REQUESTING PARTY (Name and address)</b><br><input type="checkbox"/> _____<br><input type="checkbox"/> _____<br><br><input type="checkbox"/> _____<br><input type="checkbox"/> _____<br><br><input type="checkbox"/> _____<br><input type="checkbox"/> _____ |  | <b>4. ADDITIONAL DEBTOR ADDRESSIES (You may request additional addresses by city or county. All addresses may be requested by checking the ALL box.)</b><br><br>CITY _____<br><br>COUNTY _____<br><input type="checkbox"/> ALL |

**5. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED:****TYPE OF SEARCH DESIRED: Check one box only.**

- All current UCC filings and liens for the debtor named above, at the address(es) shown in box(es) 3 and/or 4.  
 Any current UCC filings and liens from \_\_\_\_\_ to \_\_\_\_\_.  
 Federal tax liens only - partnership and corporation.  
 Specific filing numbers listed below in box 7.

**TYPE OF INFORMATION REQUESTED: Check one box only.**

- Certificate of Information \* \$4.00  
 Certificate of Information \* and true and exact copies. \$8.00

\*CERTIFICATE OF INFORMATION CONTAINS FILE NUMBER, FILE DATE, SECURED PARTY NAME AND ADDRESS.

**6. SPECIFICALLY REQUESTED FILE NUMBER(S)**

**7. FORWARD TO:** UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

**NOTE:** Records of crop related liens and federal liens against the personal property of corporations and partnerships are now filed with the Department of Licensing. Searches of both state and county records should be made during the periods of transition. See Chapters 60.11, 60.13 and 60.68 RCW.

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**8. SIGNATURE OF REQUESTING PARTY**

**9. DATE**

**UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION**

PLEASE TYPE FORM. IF AN ERROR IS MADE, CORRECT ALL COPIES

**1. OFFICE USE ONLY-DO NOT WRITE IN THIS BOX****3. DEBTOR NAME (list one debtor per request)** PERSONAL (last, first, middle name and address) SSN: \_\_\_\_\_ BUSINESS (legal business name and address) FEIN: \_\_\_\_\_**2. REQUESTING PARTY (Name and address)****4. ADDITIONAL DEBTOR ADDRESS(ES) (You may request additional addresses by city or county. All addresses may be requested by checking the ALL box.)**

CITY \_\_\_\_\_

COUNTY \_\_\_\_\_

ALL **5. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED:****TYPE OF SEARCH DESIRED: Check one box only.**

- All current UCC filings and liens for the debtor named above, at the address(es) shown in box(s) 3 and/or 4.
- Any current UCC filings and liens from \_\_\_\_\_ to \_\_\_\_\_.
- Federal tax liens only - partnership and corporation.
- Specific filing numbers listed below in box 7.

**TYPE OF INFORMATION REQUESTED: Check one box only.**

- Certificate of Information \* \$4.00
- Certificate of Information \* and true and exact copies. \$8.00

\*CERTIFICATE OF INFORMATION CONTAINS FILE NUMBER, FILE DATE, SECURED PARTY NAME AND ADDRESS.

**6. SPECIFICALLY REQUESTED FILE NUMBER(S)**

7. FORWARD TO: UNIFORM COMMERCIAL CODE  
DEPARTMENT OF LICENSING  
P.O. BOX 9660  
OLYMPIA, WA 98504

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MAKE CHECKS PAYABLE TO THE  
DEPARTMENT OF LICENSING

THE DEPARTMENT OF LICENSING HEREBY DISCLAIMS RESPONSIBILITY IN THIS RECORD SEARCH AND CERTIFICATION FOR OTHER THAN THE SPECIFICALLY NAMED DEBTOR AT THE EXACT ADDRESS(ES) CITED IN YOUR REQUEST. SEARCHING A VARIATION OF THE DEBTOR NAME OR ADDITIONAL NAMES REQUIRES SEPARATE REQUEST FORMS AND FEES.

**8. SIGNATURE OF REQUESTING PARTY****9. DATE**

((INSTRUCTIONS UCC-11R

- ~~1. PLEASE TYPE OR PRINT THIS FORM.~~ Complete this form accurately and clearly. The search will be conducted using the exact spelling of the debtor name as shown in box 2. If you make corrections to the form, be sure that all copies are corrected.
- ~~2. ONE DEBTOR NAME PER FORM.~~ Only the first debtor name entered on this form will be searched. A separate UCC-11R must be submitted for each debtor.
  - A husband and wife are considered to be two individual debtors.
  - DBAs are considered separate debtors.
- ~~3. ADDITIONAL ADDRESSES OF THE DEBTOR.~~ Previous or additional addresses will be searched as specified in box 2B or you may request a search of all addresses currently filed for a debtor by specifying ALL ADDRESSES. If a debtor has a P.O. Box in addition to a street address, please list both addresses.
- ~~4. SEARCH FEES.~~ The proper fees must accompany each search request.

|                                  |        |
|----------------------------------|--------|
| CERTIFICATE OF INFORMATION ..... | \$4.00 |
| CERTIFICATE AND COPIES .....     | \$8.00 |

MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING.

- ~~5. MAILING.~~ Send copies 1 and 2 to the address on the front of the form. Retain copy 3 for your records.
- ~~6. SEARCH RESULTS.~~ When your search request has been completed, copy 1 will be returned with the results and/or certification attached.

AMENDATORY SECTION (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

WAC 308-400-050 OFFICIAL APPROVAL OF FORMS. A supplier of standard forms who wishes to print on such forms a legend indicating that they have been officially approved as standard forms by the department of licensing shall submit two sets of reproducible proof copies of each such form to the department. The copies must demonstrate to the satisfaction of the department that the approved form in final printing will conform to content, format, size, and construction of the

forms set out in WAC 308-400-040, 308-400-042, ((308-400-044;)) 308-400-046, 308-400-047, and 308-400-048. If the department is so satisfied, it shall notify such supplier in writing. No person shall print such a legend on any form for use under Article 62A.9 RCW or chapter 60.11 or 60.13 RCW, nor shall any person in any manner represent that there has been such approval, without first applying for such approval and receiving such notice from the department. A form which has not been approved by the department shall be considered a nonstandard form.

AMENDATORY SECTION (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

WAC 308-400-052 ((NONSTANDARD)) STANDARD FORM. (1) Beginning ((July 1, 1982)) January 1, 1990, the only forms which will be considered standard forms for the purpose of assessing standard filing fees are those set out in WAC 308-400-040, 308-400-042, ((308-400-044,)) 308-400-046, and ((308-400-048)) 308-400-047. All other forms will be considered nonstandard forms to which the nonstandard ((form)) filing fees apply.

(2) Beginning January 1, ((1987)) 1990, the only forms which will be considered the standard form for ((assessing standard fees for processor, preparer, or crop liens)) requests for certificates of information shall be those set out as WAC ((308-400-046, 308-400-047, and)) 308-400-048.

(3) A standard form which includes attachments becomes a nonstandard filing and will be assessed the non-standard filing fee.

(4) Between the effective date of this amendment and December 31, 1989, forms previously approved by the department of licensing under WAC 308-400-040, 308-400-042, 308-400-046, 308-400-047, and 308-400-048 will be considered standard forms for the purpose of assessing standard fees.

AMENDATORY SECTION (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

WAC 308-400-058 SIGNATURE REQUIREMENTS. (1) A financing statement must be signed by each person listed by name as the debtor.

(2) If a ((partial assignment of the security interest perfected by a financing statement or filing form has been made, signatures of both the secured party and the assignee are required to terminate the financing statement or filing form)) financing statement or filing form lists collateral clearly identified to multiple secured parties, either on the original financing statement or by partial assignment, individual secured parties may terminate their clearly identified security interest(s) without the signature(s) of the remaining secured parties.

(3) All required signatures on UCC-3 actions must be original. ((When representing a person other than the signer, the person must be identified as the representative.))

((Each party listed as a secured party on the financing statement or filing form must sign any UCC-3 action or termination form.)) (4) When a filing form is signed by someone in a representative capacity, the signer must be identified as the representative.

AMENDATORY SECTION (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

WAC 308-400-059 TERMINATION STATEMENT, STATEMENT OF DISCHARGE ((AND)) LIEN TERMINATION STATEMENT AND CERTIFICATE OF RELEASE. (1) A "termination statement" is used to terminate a security interest under a financing statement (RCW 62A.9-404). A "statement of discharge" is used to discharge a processor or preparer

lien which has been filed with a filing officer (RCW 60-13.060). A "lien termination statement" is used for terminating a crop lien pursuant to chapter 60.11 RCW.

(2) For a security interest under a financing statement, whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, a secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a properly signed termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number. A secured party's failure to file such a termination statement or to send such a termination statement within ten days after proper demand therefor, the secured party shall be liable to the debtor for one hundred dollars plus any damages caused to the debtor by such failure.

(3) For a processor or preparer lien which has been filed with the filing officer, if the producer has received full payment for the obligation, the producer shall promptly file with the filing officer a statement declaring that full payment has been received and that the lien is discharged. If, after payment, the producer fails to file such statement of discharge within ten days following a request to do so, the producer shall be liable to the processor, conditioner or preparer in the sum of one hundred dollars plus actual damages caused by the failure.

(4) For a crop lien, the lienholder shall file with the filing officer a lien termination statement within fifteen days following receipt of full payment of the amount of the lien. Failure to file a lien termination statement by the lienholder or its assignee shall cause the lienholder or its assignee to be liable to the debtor for the attorneys' fees and costs incurred by the debtor to have the lien terminated plus damages incurred by the debtor due to the failure of the lienholder to terminate the lien.

(5) Failure to file a statement of discharge or a lien termination statement with the department of licensing may result in retention of filings records beyond the duration of the secured interest or the lien.

(6) Certificate of release of federal lien. Federal certificates of release shall be filed in accordance with provisions of the Uniform Federal Lien Registration Act, chapter 60.68 RCW.

AMENDATORY SECTION (Amending Order BLS 115, filed 7/30/87)

WAC 308-400-095 FEES. The following fees for filing information with, and for obtaining information from, filing officers ((shall be charged)) are adopted by the department of licensing:

(1) For filing, indexing, and furnishing data pursuant to a security interest created by a deed of trust or mortgage under provisions of RCW 62A.9-302, the fee shall be seven dollars.

(2) For filing and indexing an original financing statement or a continuation statement pursuant to RCW 62A.9-403, and for stamping a copy furnished by the secured party showing the date and place of filing, the fee shall be four dollars if the statement is in the standard form prescribed by the department of licensing, but

if the form of the statement does not conform to the standards prescribed by the department, or if attached pages are added, the fee shall be seven dollars.

(3) For filing, indexing, and furnishing filing data for a financing statement indicating an assignment or a separate statement of assignment, under provisions of RCW 62A.9-405, on a form conforming to standards prescribed by the department of licensing shall be four dollars, but if the form of the financing statement or separate statement of assignment does not conform to the standards prescribed by the department, or if attached pages are added, the fee shall be seven dollars.

(4) For filing and noting a statement of release pursuant to RCW 62A.9-406 on a form conforming to standards prescribed by the department of licensing, the fee shall be four dollars, but if the form of the statement does not conform to the standards prescribed by the department, or if attached pages are added, the fee shall be seven dollars.

(5) For a certificate of information pursuant to RCW 62A.9-407, the fee shall be four dollars. For a certificate of information pursuant to RCW 62A.9-407 and for a copy of any filed financing statements or statements of assignment the fee shall be eight dollars for each particular debtor's statements requested.

#### AMENDATORY SECTION (Amending Order BLS 115, filed 7/30/87)

**WAC 308-400-100 FEES, FORMS AND PROCEDURES—FILING PROCESSOR AND PREPARER LIENS FOR AGRICULTURAL PRODUCTS OR COMMERCIAL FISH.** The filing forms, fees and procedures for filing with, and obtaining information from, filing officers, pertaining to processor and preparer liens for agricultural products or commercial fish pursuant to chapter 60.13 RCW, shall correspond to the forms, fees and procedures prescribed by the department of licensing pursuant to chapter 62A.9 RCW, for filing statements or information with, and obtaining information from, filing officers.

#### NEW SECTION

**WAC 308-400-120 FORMS, FEES, AND PROCEDURES—FILING FEDERAL LIENS.** The filing fees and procedures for filing information with and obtaining information from the department of licensing pertaining to federal liens pursuant to chapter 60.68 RCW shall correspond to the filing fees and procedures prescribed by the department of licensing pursuant to Article 62A.9 RCW. The filing forms shall be those forms approved between the department of licensing and the Internal Revenue Service.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

**WAC 308-400-044 UCC-1X FINANCING STATEMENT TO CONTINUE A COUNTY FILING AT THE DEPARTMENT OF LICENSING.**

#### WSR 89-06-079

#### PROPOSED RULES

#### DEPARTMENT OF WILDLIFE

[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the director, Department of Wildlife intends to adopt, amend, or repeal rules concerning field identification of wildlife, amending WAC 232-12-267;

that the agency will at 9:00 a.m., Friday, April 7, 1989, in the Compton Union Building, Washington State University, Pullman, Washington 99164-4220, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 77.12.030, 77.12.105 and 77.16.095.

The specific statute these rules are intended to implement is RCW 77.12.030, 77.12.105 and 77.16.095.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1989.

Dated: February 28, 1989

By: Tom Juelson

Assistant Director

Wildlife Management Division

#### STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-267  
Field identification of wildlife.

Statutory Authority: RCW 77.12.030, 77.12.105 and 77.16.095.

Specific Statute that Rule is Intended to Implement: RCW 77.12.030, 77.12.105 and 77.16.095.

Summary of the Rule: Establishes requirements for field identification of wildlife until the carcass is processed and/or stored for consumption.

Reasons Supporting the Proposed Rule: The existing rule requires that feathered heads be left attached to the carcass of all game birds. The amendment excepts falconry caught birds because falcons sometimes consume the heads of game birds during the hunting process; and under current rules the hunter has to retain the head of all big game animals with the carcass. In back country areas, this may mean packing extra weight of nonedible game. The amendment is designed to allow hunters to retain evidence of sex of deer or elk without packing the head and antlers out of the woods. In goat, sheep, or moose hunting areas or in deer or elk hunting areas with antler restrictions, the head with antlers or horns attached must still accompany the carcass of the animal as evidence of sex.

Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, Assistant Director, Wildlife Management Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5728; and Enforcement: Dan Wyckoff, Assistant Director, Wildlife Enforcement, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5740.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: Not required.

#### AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-267 FIELD IDENTIFICATION OF WILDLIFE.  
~~((It is unlawful to possess wildlife in the field or to transport wildlife unless:))~~

(1) It is unlawful to possess or transport game birds unless the feathered heads are left attached to ((all game birds)) the carcass, except falconry caught birds, until the carcass is processed and/or stored for consumption.

(2) It is unlawful to possess or transport ((Heads of)) big game animals ((accompany)) unless evidence of the sex of the animal remains with the carcass until the carcass is processed and/or stored for consumption.

(a) In goat, sheep, or moose hunting areas or in deer or elk hunting areas with antler restrictions, the head with antlers or horns attached must accompany the carcass of the animal as evidence of sex.

(b) In deer or elk hunting areas with no antler restrictions, the head with antlers attached or penis or testes or udder must be naturally attached to at least one quarter of the carcass of the animal as evidence of sex.

(c) For the purpose of this rule, "stored for consumption" means at the final point of storage prior to consumption of the meat.

#### WSR 89-06-080 PROPOSED RULES DEPARTMENT OF WILDLIFE (Wildlife Commission) [Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning:

|     |                  |  |
|-----|------------------|--|
| New | WAC 232-28-61717 | Amendment to the 1988-90 game fishing regulations—Washougal River.   |
| New | WAC 232-28-61720 | Amendment to the 1988-90 game fishing regulations—Columbia River regulations license reciprocity provisions between Oregon and Washington. |
| New | WAC 232-28-61721 | Amendment to the 1988-90 game fishing regulations—Toutle River.  |
| Amd | WAC 232-12-001   | Definition of terms;   |

that the agency will at 9:00 a.m., Friday, April 7, 1989, in the Washington State University, Compton Union Building, Pullman, Washington 99164-4220, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1989.

Dated: March 1, 1989  
 By: Mike P. Kuttel  
 Acting Assistant Director

#### STATEMENT OF PURPOSE

Title and Number of Rule Section(s): WAC 232-28-61717 Amendment to 1988-90 game fishing regulations—Washougal River; 232-28-61720 Amendment to 1988-90 game fishing regulations—Columbia River regulations license reciprocity provisions between Oregon and Washington; 232-28-61721 Amendment to the 1988-90 game fishing regulations—Toutle River; and 232-12-001 Definition of terms.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: WAC 232-28-61717, protect wild steelhead and cutthroat spawning stocks; WAC 232-28-61720, anglers must abide by the regulations of the state they are fishing in when fishing boundary waters between Oregon and Washington; WAC 232-28-61721, set fishing boundaries around new fish collection facility on Toutle River; and WAC 232-12-001, change scientific name of steelhead trout and searun cutthroat.

Reasons Supporting the Proposed Rule(s): WAC 232-28-61717, due to miswording in the 1988-90 game fish pamphlet, the game fish regulation for the Washougal River does not portray the original intent. To protect wild steelhead and wild cutthroat spawning stocks in the Washougal River from the mouth to the bridge at Salmon Falls wild steelhead and wild cutthroat release regulations are needed; WAC 232-28-61720, this definition change is needed to make our reciprocity statement agree with Oregon's. Due to differences in certain other regulations between the two states, our reciprocity statement is no longer valid; WAC 232-28-61721, this regulations change is necessary as this man-made barrier will cause fish to accumulate at the entrance and also present enforcement problems with the numerous anglers; and WAC 232-12-001, the American Fisheries Society has changed the scientific name of western trouts. A change in our WAC will keep us in conformance with accepted standards.

Agency Personnel Responsible for Drafting and Implementation: Mike P. Kuttel, Assistant Director, Fish Management Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5713; and Enforcement: Daniel Wyckoff, Assistant Director, Enforcement Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5740.

Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

**Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s):** None.

The rules are not necessary to comply with a federal law or a federal or state court decision.

**Any Other Information that may be of Assistance in Identifying the Rule or its Purpose:** None.

**Small Business Economic Impact Statement:** Not required.

#### NEW SECTION

**WAC 232-28-61717 AMENDMENT TO THE 1988-90 GAME FISHING REGULATIONS — WASHOUGAL RIVER.** Notwithstanding the provisions of WAC 232-28-617, effective January 20, 1989, the following game fish regulation will apply to the Washougal River:

**WASHOUGAL RIVER, 197, from mouth to bridge at Salmon Falls: year around season. TROUT — catch limit —2, min. lgth. 12". WILD STEELHEAD RELEASE AND WILD CUTTHROAT RELEASE. NIGHT CLOSURE April 1-Oct. 31, see pg. 3.**

All other provisions of WAC 232-28-617 remain in effect and unchanged.

#### NEW SECTION

**WAC 232-28-61720 AMENDMENT TO 1988-90 GAME FISH SEASONS AND CATCH LIMITS — COLUMBIA RIVER REGULATIONS LICENSE RECIPROCITY PROVISIONS BETWEEN OREGON AND WASHINGTON.** Notwithstanding the provisions of WAC 232-28-617, the provisions for license reciprocity on the Columbia River where it forms the boundary between Oregon and Washington shall read as follows:

In the Columbia River between Washington and Oregon, the license of either state is valid. Anglers must comply with the fishing regulations of the state in which they are fishing. This provision does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington.

Anglers fishing the Columbia River are restricted to one daily catch limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

#### NEW SECTION

**WAC 232-28-61721 AMENDMENT TO 1988-90 GAME FISH REGULATIONS — TOUTLE RIVER (LEWIS COUNTY).** Notwithstanding the provisions of WAC 232-28-61721, the game fish regulations for the North Fork Toutle River are as follows:

**TOUTLE RIVER, North Fork, 187, from mouth to the posted deadline below the fish collection facility, June 15-Nov. 30 season, WILD STEELHEAD RELEASE, open only to the taking of steelhead over 20".**

From the mouth of the Green River to the posted deadline below the fish collection facility, it is unlawful to (1) fish during NIGHT CLOSURE, (2) fish with non-buoyant artificial lures having more than one single-pointed hook. June 15-Nov. 30 season.

From the posted deadline below the fish collection facility upstream to the headwaters, including all tributary streams, CLOSED WATERS. (NOTE: Castle and Clearwater Lakes remain open.)

#### AMENDATORY SECTION (Amending Order 280, filed 10/6/86)

**WAC 232-12-001 DEFINITION OF TERMS.** Definitions used in rules of the commission are defined in RCW 77.08.010. In addition, unless the context clearly requires otherwise:

(1) Snagging, gaffing, or spearing means: An effort to impale game fish in a part of its body other than its mouth by use of hooks or other devices.

(2) A valid license, permit, tag, stamp or punchcard means: A license, permit, tag, stamp, or punchcard that was issued to the bearer for the current season by the commission and is required to hunt, fish or possess wildlife and has not been altered except as provided by rule of the commission.

(3) Hook means: One single, double, or treble hook.

(4) Barbless hook means: A single, pointed hook from which all barbs have been filed off, pinched down, removed or deleted when manufactured.

(5) Falconry means: Possession, control, or use of a raptor for the purpose of hunting and free flight training.

(6) Anadromous game fish means:

(a) Steelhead trout, ((*Salmo gairdneri*)) *Oncorhynchus mykiss*

(b) Searun cutthroat, ((*Salmo clarkii*)) *Oncorhynchus clarkii*

(c) Searun Dolly Varden, *Salvelinus malma*

(7) Handgun means: Any pistol, revolver or short firearm with a barrel length of less than sixteen inches and does not have a shoulder stock.

(8) A lure means: A manufactured article with one or more hooks attached, utilized for attraction or enticement of game fish.

(9) Bait means: A natural substance, fresh or processed, utilized for attraction or enticement of wildlife and game fish.

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

#### WSR 89-06-081

#### PROPOSED RULES

#### DEPARTMENT OF WILDLIFE

(Wildlife Commission)

[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning Amendment to 1988-90 game fish regulations—Sooes (Suez) River and tributaries, WAC 232-28-61722;

that the agency will at 9:00 a.m., Friday, April 7, 1989, in the Washington State University, Compton Union Building, Pullman, Washington 99164-4220, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1989.

Dated: March 1, 1989

By: Mike P. Kuttel  
Acting Assistant Director

#### STATEMENT OF PURPOSE

Title and Number of Rule Section(s): WAC 232-28-61722 Amendment to 1988-90 game fishing regulations—Sooes (Suez) River and tributaries.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: WAC 232-28-61722, close Sooes River until further notice.

Reasons Supporting the Proposed Rule(s): WAC 232-28-61722, the European fish virus causing viral hemorrhagic septicemia (VHS) has been isolated from returning adult coho salmon at the Makah National Fish Hatchery on the Sooes (Suez) River. Additional coho

adults were passed above the hatchery to spawn naturally. Because the virus has never before been found in North America and because it is deadly to several marine species as well as salmonids it needs to be contained, and if possible, eradicated from the system. Closure of the Sooes River to sport fishing will help prevent the spread of disease.

**Agency Personnel Responsible for Drafting and Implementation:** Mike P. Kuttel, Assistant Director, Fish Management Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5713; and **Enforcement:** Daniel Wyckoff, Assistant Director, Enforcement Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5740.

**Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule:** Department of Wildlife.

**Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s):** None.

The rules are not necessary to comply with a federal law or a federal or state court decision.

**Any Other Information that may be of Assistance in Identifying the Rule or its Purpose:** None.

**Small Business Economic Impact Statement:** Not required.

#### NEW SECTION

**WAC 232-28-61722 AMENDMENT TO 1988-90 GAME FISH REGULATIONS — SOOES (SUEZ) RIVER AND TRIBUTARIES.** Notwithstanding the provisions of WAC 232-28-617, effective June 1, 1989 and until further notice, the Sooes (Suez) River and its tributaries are closed to game fishing.

**WSR 89-06-082  
PROPOSED RULES  
DEPARTMENT OF WILDLIFE  
(Wildlife Commission)**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning Amendment to 1988-90 game fish regulations—Cascade Lake, Summit Lake, Flahertys Pond, and Mountain Lake, all located on Orcas Island, WAC 232-28-61723;

that the agency will at 9:00 a.m., Friday, April 7, 1989, in the Washington State University, Compton Union Building, Pullman, Washington 99164-4220, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1989.

Dated: March 1, 1989  
By: Mike P. Kuttel  
Acting Assistant Director

#### **STATEMENT OF PURPOSE**

**Title and Number of Rule Section(s):** WAC 232-28-61723 Amendment to 1988-90 game fish regulations—Cascade Lake, Summit Lake, Flahertys Pond, and Mountain Lake, all located on Orcas Island.

**Statutory Authority:** RCW 77.12.040.

**Specific Statute that Rule is Intended to Implement:** RCW 77.12.040.

**Summary of the Rule:** WAC 232-28-61723, close specified Orcas Island waters until further notice.

**Reasons Supporting the Proposed Rule(s):** WAC 232-28-61723, the European fish virus causing viral hemorrhagic septicemia (VHS) has been isolated from returning adult chinook salmon at a private cooperative hatchery on Orcas Island. Because the virus has never before been found in North America, and because it is deadly to several marine species, as well as salmonids, it needs to be contained, and if possible, eradicated from the system. Closure of Orcas Island waters to game fishing will help prevent the spread of disease.

**Agency Personnel Responsible for Drafting and Implementation:** Mike P. Kuttel, Assistant Director, Fish Management Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5713; and **Enforcement:** Daniel Wyckoff, Assistant Director, Enforcement Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5740.

**Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule:** Department of Wildlife.

**Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s):** None.

The rules are not necessary to comply with a federal law or a federal or state court decision.

**Any Other Information that may be of Assistance in Identifying the Rule or its Purpose:** None.

**Small Business Economic Impact Statement:** Not required.

#### NEW SECTION

**WAC 232-28-61723 AMENDMENT TO 1988-90 GAME FISH REGULATIONS — CASCADE LAKE, SUMMIT LAKE, FLAHERTYS POND, AND MOUNTAIN LAKE, ALL LOCATED ON ORCAS ISLAND.** Notwithstanding the provisions of WAC 232-28-617, effective April 23, 1989 and until further notice, the following waters are closed to game fishing:

Cascade Lake (Orcas Island)  
Summit Lake (Orcas Island)  
Flahertys Pond (Orcas Island)  
Mountain Lake (Orcas Island)

**WSR 89-06-083**  
**PROPOSED RULES**  
**DEPARTMENT OF WILDLIFE**  
**(Wildlife Commission)**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning:

New WAC 232-28-811 1989 Mountain goat, sheep, moose, cougar and lynx hunting seasons.  
Rep WAC 232-28-810 1988 Mountain goat, sheep, moose, cougar and lynx hunting seasons;

that the agency will at 9:00 a.m., Friday, April 7, 1989, in the Compton Union Building, Washington State University, Pullman, Washington 99164-4220, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1989.

Dated: February 28, 1989  
By: Tom Juelson  
Assistant Director  
Wildlife Management Division

**STATEMENT OF PURPOSE**

Title and Number of Rule Section: WAC 232-28-811  
1989 Mountain goat, sheep, moose, cougar and lynx hunting seasons.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement:  
RCW 77.12.040.

Summary of the Rule: Establishes 1989 hunting seasons and rules for mountain goat, sheep, moose, cougar and lynx.

Reasons Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, Assistant Director, Wildlife Management Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5728; and Enforcement: Dan Wyckoff, Assistant Director, Wildlife Enforcement, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5740.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule:  
No comments.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: Not required.

**NEW SECTION**

WAC 232-28-811 1989 MOUNTAIN GOAT, SHEEP, MOOSE, COUGAR AND LYNX HUNTING SEASONS.

**Reviser's note:** The text and accompanying pamphlet comprising the 1989 Mountain goat, sheep, moose, cougar and lynx hunting seasons proposed by the Department of Wildlife have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Wildlife, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

**REPEALER**

The following section of the Washington Administrative Code is hereby repealed:

WAC 232-28-810 1988 Mountain Goat, Sheep, Moose, Cougar, and Lynx Hunting Seasons

**WSR 89-06-084**  
**PROPOSED RULES**  
**LOTTERY COMMISSION**  
[Filed March 1, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Lottery Commission intends to adopt, amend, or repeal rules concerning:

|     |                |   |
|-----|----------------|---|
| Amd | WAC 315-30-080 | On-line retailer selection criteria.                        |
| New | WAC 315-11-410 | Definitions for Instant Game Number 41 ("Three of a Kind"). |
| New | WAC 315-11-411 | Criteria for Instant Game Number 41.                        |
| New | WAC 315-11-412 | Ticket validation requirements for Instant Game Number 41.  |
| New | WAC 315-11-420 | Definitions for Instant Game Number 42 ("Zodiac").          |
| New | WAC 315-11-421 | Criteria for Instant Game Number 42.                        |
| New | WAC 315-11-422 | Ticket validation requirements for Instant Game Number 42.  |
| New | WAC 315-11-430 | Definitions for Instant Game Number 43 ("7-11-21").         |
| New | WAC 315-11-431 | Criteria for Instant Game Number 43.                        |
| New | WAC 315-11-432 | Ticket validation requirements for Instant Game Number 43.  |
| New | WAC 315-30-075 | On-line retailer agreement;                                 |

that the agency will at 10:00 a.m., Friday, April 7, 1989, in the Drawing Studio, Washington State Lottery, 814 4th Avenue, Olympia, WA 98506, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1989.

Dated: March 1, 1989  
 By: Scott L. Milne  
 Deputy Director

### STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s):  
 See above.

Statutory Authority: RCW 67.70.040.  
 Specific Statute that Rules are Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): WAC 315-30-080, this amendment provides that the director may discontinue the sale of on-line tickets and remove a terminal if the retailer fails to sign an agreement with the lottery; WAC 315-11-410, this rule provides definitions of the terms used in Instant Game Number 41 rules; WAC 315-11-411, this rule sets forth criteria for Instant Game Number 41; WAC 315-11-412, this rule states the ticket validation requirements for Instant Game Number 41; WAC 315-11-420, this rule provides definitions of the terms used in Instant Game Number 42 rules; WAC 315-11-421, this rule sets forth criteria for Instant Game Number 42; WAC 315-11-422, this rule states the ticket validation requirements for Instant Game Number 42; WAC 315-11-430, this rule provides definitions of the terms used in Instant Game Number 43 rules; WAC 315-11-431, this rule sets forth criteria for Instant Game Number 43; WAC 315-11-432, this rule states the ticket validation requirements for Instant Game Number 43; and WAC 315-30-075, this rule provides that all on-line retailers shall sign an agreement with the lottery.

Reasons Supporting the Proposed Rule(s): WAC 315-30-080, the lottery needs the ability to discontinue sales or remove a terminal when a retailer fails to sign an agreement; WAC 315-11-410, certain terms need to be defined in order to provide consistency in understanding and interpreting the rules and regulations under WAC 315-11-411 and 315-11-412; WAC 315-11-411, licensed retailers and players of Instant Game Number 41 need to know how the game will function. Specifying the criteria which apply to Instant Game Number 41 will provide this information; WAC 315-11-412, tickets for Instant Game Number 41 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage persons from tampering with tickets and to prevent the lottery from paying out prize money on invalid tickets; WAC 315-11-420, certain terms need to be defined in order to provide consistency in understanding and interpreting the rules and regulations under WAC 315-11-421 and 315-11-422; WAC 315-11-421, licensed retailers and players of Instant Game Number 42 need to know how the game will function. Specifying the criteria which apply to Instant Game Number 42 will provide this information; WAC 315-11-422, tickets for Instant Game Number 42 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage persons from tampering with tickets and to prevent the lottery from paying out prize

money on invalid tickets; WAC 315-11-430, certain terms need to be defined in order to provide consistency in understanding and interpreting the rules and regulations under WAC 315-11-431 and 315-11-432; WAC 315-11-431, licensed retailers and players of Instant Game Number 43 need to know how the game will function. Specifying the criteria which apply to Instant Game Number 43 will provide this information; WAC 315-11-432, tickets for Instant Game Number 43 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage persons from tampering with tickets and to prevent the lottery from paying out prize money on invalid tickets; and WAC 315-30-075, lottery retailers must be informed of rules and procedures which may be the basis for enforcement measures by the lottery.

Agency Personnel Responsible for Drafting: Judith Giniger, Contract Specialist 3, Washington State Lottery, P.O. Box 9770, Olympia, Washington 98504, (206) 586-1088; Implementation and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, Washington 98504, (206) 753-1412, Evelyn Y. Sun, Director, (206) 753-3330, Scott Milne, Deputy Director, (206) 753-3334, Roger Wilson, Assistant Director (206) 586-1065 and Candice Bluechel, Assistant Director, (206) 753-1947.

Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing this Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding the Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with federal law or a federal/state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement Requirements: The office of the director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses, large and small, which voluntarily apply to be licensed retailers for the sale of lottery tickets, or contractors who provide other services to the office of the director, Washington State Lottery, or who voluntarily interact with the office of the director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to, or interact with, the office of the director, Washington State Lottery.

### AMENDATORY SECTION (Amending Order 72 [81], filed 4/5/85 [11/5/85])

WAC 315-30-080 ON-LINE RETAILER SELECTION CRITERIA. (1) The selection and distribution of on-line retailers throughout the state will be based on:

(a) The number of licensed retailers in each of the regions identified in WAC 315-12-030, and then;

(b) The potential for revenue generation, demographics, and public accessibility within that region.

(2) An on-line license endorsement shall be issued only to a person who possesses a valid general license, provided, the director may issue an on-line endorsement to a lottery retailer who possesses a valid provisional license if that retailer is a new owner of a previously established on-line location.

(3) In addition, the director shall consider the following factors in the selection of on-line retailers.

(a) Business and security considerations which include but are not limited to: (i) Instant game accounts receivable record, (ii) criminal history of owners and officers, (iii) history of criminal activity at the business establishment, (iv) past security problems, (v) credit rating as defined in WAC 315-30-090, (vi) licensing requirements, and (vii) history of administrative or regulatory actions.

(b) Marketing considerations which include but are not limited to: (i) Instant ticket sales history, (ii) outside vehicle traffic, (iii) retailer customer count, (iv) access to location, and (v) management attitude and willingness to promote lottery products.

(4) The director shall determine the total number of TDM's to be installed throughout the state and shall establish procedures for on-line site selection. In determining the order in which TDMs will be installed within a given geographic area, an on-line site selection survey will be completed in which, the factors considered will include but not be limited to:

- (a) General information;
- (b) Description of proposed site;
- (c) Proposed TDM location;
- (d) Products sold;
- (e) Services available;
- (f) Store's hours;
- (g) Estimated on-line sales;
- (h) Instant sales per week;
- (i) Nearest four on-line agents' sales per week;
- (j) District sales representative's assessment; and
- (k) Regional sales manager's assessment.

(5) The director may, after a TDM has been in operation for six months, order the removal of a TDM from a low producing on-line retailer location after considering marketing factors which include but are not limited to:

- (a) Sales volume not increasing at state-wide average;
- (b) Weekly sales volume below that of similar businesses with similar market potential;
- (c) Sales volume below \$5,000 per week in metropolitan areas;
- (d) Public is adequately served by other on-line agent locations; and
- (e) Failure to generate sufficient sales volume to cover the lottery's administrative costs.

(6) The director may immediately discontinue a TDM's operation, order removal of a TDM from an on-line retailer location, or take any other action authorized under WAC 315-04-200 in the event that the on-line agent:

- (a) Fails to comply with any rule established by the commission, any instruction issued by the director;
- (b) Tamps with or attempts to tamper with the TDM or on-line system;
- (c) Fails to make payment of a prize; (*or*)
- (d) Makes payment with a business check and the check is dishonored for any reason; *or*
- (e) Fails to enter into an agreement with the lottery as required in WAC 315-30-075.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

#### NEW SECTION

**WAC 315-11-410 DEFINITIONS FOR INSTANT GAME NUMBER 41 ("THREE OF A KIND").** (1) Play symbols: The following are the "play symbols": "A", "K", "Q", "J", "10", "9", "8", and "7". One of these play symbols appears under each of the six rub-off spots on the front of the ticket.

(2) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol.

One and only one of these captions appears under each play symbol. For Instant Game Number 41, the captions which correspond with and verify the play symbols are:

| PLAY NUMBER | CAPTION |
|-------------|---------|
| A           | ACE     |
| K           | KNG     |
| Q           | QUE     |
| J           | JAC     |
| 10          | TEN     |
| 9           | NIN     |
| 8           | EQT     |
| 7           | SVN     |

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The ten-digit number of the form 4100001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 41 constitute the "pack number" which starts at 4100001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25 and less. For Instant Game Number 41, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

| VERIFICATION CODE | PRIZE   |
|-------------------|---------|
| ONE               | \$ 1.00 |
| TWO               | \$ 2.00 |
| FIV               | \$ 5.00 |
| TEN               | \$10.00 |
| TTY               | \$20.00 |

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

#### NEW SECTION

**WAC 315-11-411 CRITERIA FOR INSTANT GAME NUMBER 41.** (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) Winning tickets: Having the following play symbols in any 3 of 6 spots beneath the removable covering on the front of the ticket shall win the following prize:

|                     |           |
|---------------------|-----------|
| Three 7's - Win \$  | 1.00      |
| Three 8's - Win \$  | 2.00      |
| Three 9's - Win \$  | 5.00      |
| Three 10's - Win \$ | 10.00     |
| Three J's - Win \$  | 20.00     |
| Three Q's - Win \$  | 50.00     |
| Three K's - Win \$  | 500.00    |
| Three A's - Win \$  | 10,000.00 |

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 41 set forth in WAC 315-11-412, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

- (a) Vary the length of Instant Game Number 41; and/or
- (b) Vary the number of tickets sold in Instant Game Number 41 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

#### NEW SECTION

**WAC 315-11-412 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 41.** (1) In addition to meeting all

other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 41 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the main portion of the ticket.

(b) Each of the six play symbols and the prize symbol must have a caption underneath, and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

|                            |                      |
|----------------------------|----------------------|
| Play Symbols               | Positive Archer Font |
| Captions                   | Positive 5 x 9 Font  |
| Pack-Ticket Number         | Positive 9 x 12 Font |
| Validation Number          | Positive 9 x 12 Font |
| Retailer Verification Code | Positive Archer Font |

(d) Each of the play symbols and their captions, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-410(1) and each of the captions must be exactly one of those described in WAC 315-11-410(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

## NEW SECTION

WAC 315-11-420 DEFINITIONS FOR INSTANT GAME NUMBER 42 ("ZODIAC"). (1) Play symbols: The following are the "play symbols": "\$2.00"; "\$4.00"; "\$10.00"; "\$50.00"; "\$100"; and "\$500". One of these symbols appears in each of the six blocks under the scratch-off material covering the game play data.

(2) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 42, the captions which correspond with and verify the play symbols are:

| PLAY SYMBOL | CAPTION   |
|-------------|-----------|
| \$ 2.00     | TWO DOL   |
| \$ 4.00     | FOR DOL   |
| \$ 10.00    | TEN DOL   |
| \$ 50.00    | \$FIFTY\$ |
| \$100       | ONE HUN   |
| \$500       | FIV HUN   |

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The ten-digit number of the form 4200001-000 printed on the front of the ticket. The first two digits are the game identifier. The first seven digits of the pack-ticket number for Instant Game Number 42 constitute the "pack number" which starts at 4200001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25 and less. For Instant Game Number 42, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of nine locations among the play symbols on the front of the ticket. The agent verification codes are:

| VERIFICATION CODE | PRIZE   |
|-------------------|---------|
| TWO               | \$ 2.00 |
| FOR               | \$ 4.00 |
| TEN               | \$10.00 |

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

## NEW SECTION

WAC 315-11-421 CRITERIA FOR INSTANT GAME NUMBER 42. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbol in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

|                             |                 |
|-----------------------------|-----------------|
| Three \$ 2.00 play symbols  | - Win \$ 2.00   |
| Three \$ 4.00 play symbols  | - Win \$ 4.00   |
| Three \$ 10.00 play symbols | - Win \$ 10.00  |
| Three \$ 50.00 play symbols | - Win \$ 50.00  |
| Three \$100 play symbols    | - Win \$ 100.00 |
| Three \$500 play symbols    | - Win \$ 500.00 |

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 42 set forth in WAC 315-11-422, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 42 and/or

(b) Vary the number of tickets sold in Instant Game Number 42 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

## NEW SECTION

WAC 315-11-422 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 42. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 42 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the front of the ticket.

(b) Each of the six play symbols must have a caption below and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

|                            |                      |
|----------------------------|----------------------|
| Play Symbols               | Positive Archer Font |
| Captions                   | Positive 5 x 9 Font  |
| Pack-Ticket Number         | Positive 9 x 12 Font |
| Validation Number          | Positive 9 x 12 Font |
| Retailer Verification Code | Positive Archer Font |

(d) Each of the play symbols and their captions, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-420(1) and each of the captions must be exactly one of those described in WAC 315-11-420(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

## NEW SECTION

WAC 315-11-430 DEFINITIONS FOR INSTANT GAME NUMBER 43 ("7-11-21"). (1) Play symbols: The following are the "play symbols": "0"; "1"; "2"; "3"; "4"; "5"; "6"; and "9".

(2) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(3) Pack-ticket number: The ten-digit number of the form 4300001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 43 constitute the "pack number" which starts at 4300001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Captions: The small printed characters appearing below each prize and play symbol which verifies and corresponds with that symbol. The caption is a spelling out, in full or abbreviated form of the symbol. One and only one of these captions appears under each symbol. For Instant Game Number 43, the captions which correspond with and verify the symbols are:

| <u>PLAY SYMBOL</u> | <u>CAPTION</u> |
|--------------------|----------------|
| 0                  | ZRO            |
| 1                  | ONE            |
| 2                  | TWO            |
| 3                  | THR            |
| 4                  | FOR            |
| 5                  | FIV            |
| 6                  | SIX            |
| 9                  | NIN            |

For Instant Game Number 43, the captions which correspond with and verify the prize symbols are:

| <u>PRIZE SYMBOL</u> | <u>CAPTION</u> |
|---------------------|----------------|
| \$ 1.00             | ONE DOL        |
| \$ 2.00             | TWO DOL        |
| \$ 7.00             | SVN DOL        |
| \$ 11.00            | ELV DOL        |
| \$ 21.00            | TTN ONE        |
| \$ 70.00            | \$\$VNTY\$     |
| \$ 21,000.00        | 21 THOU        |

(5) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25 and below. For Instant Game Number 43, the retailer verification code is a three-letter code, with each letter appearing in a varying three of four locations beneath the removable covering and among the symbols on the front of the ticket. The retailer verification codes are:

| <u>VERIFICATION CODE</u> | <u>PRIZE</u> |
|--------------------------|--------------|
| ONE                      | \$ 1.00      |
| TWO                      | \$ 2.00      |
| SVN                      | \$ 7.00      |
| ELV                      | \$11.00      |
| TTN                      | \$21.00      |

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

#### NEW SECTION

#### WAC 315-11-431 CRITERIA FOR INSTANT GAME NUMBER 43. (1) The prize of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) An instant prize winning ticket shall have an occurrence of three play symbols which total 7, 11 or 21; if the sum of the three play symbols on the ticket is 7, 11 or 21 the player wins the prize specified in the prize box.

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 43 set forth in WAC 315-11-432, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 43 and/or

(b) Vary the number of tickets sold in Instant Game Number 43 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

#### NEW SECTION

#### WAC 315-11-432 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 43. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 43 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the three rub-off spots on the front of the ticket, and exactly one prize symbol must appear under the prize box rub-off spot.

(b) Each of the three play symbols must have a caption below and each must agree with its caption, and the prize symbol must have a caption below and must agree with its caption.

(c) The display printing and the printed numbers, letters, and play symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and play symbols shall be printed as follows:

|                          |                      |
|--------------------------|----------------------|
| Play symbols             | Positive Archer Font |
| Captions                 | Positive 5 x 9 Font  |
| Pack-Ticket Number       | Positive 9 x 12 Font |
| Validation Number        | Positive 9 x 12 Font |
| Retail Verification Code | Positive Archer Font |

(d) Each of the play symbols and their captions, the validation number, pack-ticket number, agent verification code, stub play symbols, and the stub number must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-430(1) and each of the captions must be exactly one of those described in WAC 315-11-430(4).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

#### NEW SECTION

**WAC 315-30-075 ON-LINE RETAILER AGREEMENT.** Each on-line retailer shall enter into an agreement with the lottery containing such terms and conditions as the director may require. Failure to enter into such an agreement may result in denial of a TDM; immediate discontinuance of a TDM's operation, or removal of a TDM from an on-line location.

## Table of WAC Sections Affected

### KEY TO TABLE

**Symbols:**

AMD = Amendment of existing section  
 NEW = New section not previously codified  
 OBJEC = Notice of objection by Joint Administrative Rules Review Committee  
 RE-AD = Readoption of existing section  
 REP = Repeal of existing section  
 REAFF = Order assuming and reaffirming rules  
 REMOV = Removal of rule pursuant to RCW 34.04.050(5)  
 RESCIND = Rescind previous emergency rule  
 REVIEW = Review of previously adopted rule  
 STMT = Statement regarding previously adopted rule

**Suffixes:**

-P = Proposed action  
 -C = Continuance of previous proposal  
 -E = Emergency action  
 -W = Withdrawal of proposed action  
 No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**WAC #** shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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| 4-25-180   | REP   | 89-03-062 | 50-44-020   | AMD-P | 89-06-059 | 132D-12-015 | REP-P | 89-05-047 |
| 4-25-191   | NEW   | 89-03-062 | 51-12-102   | AMD   | 89-04-043 | 132D-12-020 | REP-P | 89-05-012 |
| 16-30-010  | AMD-P | 89-02-056 | 51-12-206   | AMD   | 89-04-043 | 132D-12-020 | REP-W | 89-05-046 |
| 16-30-010  | AMD   | 89-06-014 | 51-12-219   | AMD   | 89-04-043 | 132D-12-020 | REP-P | 89-05-047 |
| 16-30-020  | AMD-P | 89-02-056 | 51-12-223   | AMD   | 89-04-043 | 132D-20-010 | REP-P | 89-05-012 |
| 16-30-020  | AMD   | 89-06-014 | 51-12-305   | AMD   | 89-04-043 | 132D-20-020 | REP-W | 89-05-046 |
| 16-30-025  | NEW-P | 89-02-056 | 51-12-402   | AMD   | 89-04-043 | 132D-20-020 | REP-P | 89-05-012 |
| 16-30-025  | NEW   | 89-06-014 | 51-12-411   | AMD   | 89-04-043 | 132D-20-020 | REP-W | 89-05-046 |
| 16-30-030  | AMD-P | 89-02-056 | 51-12-426   | AMD   | 89-04-043 | 132D-20-030 | REP-P | 89-05-012 |
| 16-30-030  | AMD   | 89-06-014 | 51-12-503   | AMD   | 89-04-043 | 132D-20-030 | REP-W | 89-05-046 |
| 16-30-050  | AMD-P | 89-02-056 | 51-12-601   | AMD   | 89-04-043 | 132D-20-040 | REP-P | 89-05-012 |
| 16-30-050  | AMD   | 89-06-014 | 51-12-602   | AMD   | 89-04-043 | 132D-20-040 | REP-W | 89-05-046 |
| 16-30-060  | AMD-P | 89-02-056 | 51-12-605   | AMD   | 89-04-043 | 132D-20-050 | REP-P | 89-05-012 |
| 16-30-060  | AMD   | 89-06-014 | 51-12-608   | AMD   | 89-04-043 | 132D-20-050 | REP-W | 89-05-046 |
| 16-30-070  | AMD-P | 89-02-056 | 55-01-010   | AMD   | 89-06-001 | 132D-20-060 | REP-P | 89-05-012 |
| 16-30-070  | AMD   | 89-06-014 | 55-01-030   | AMD   | 89-06-001 | 132D-20-060 | REP-W | 89-05-046 |
| 16-30-090  | AMD-P | 89-02-056 | 55-01-050   | AMD   | 89-06-001 | 132D-20-070 | REP-P | 89-05-012 |
| 16-30-090  | AMD   | 89-06-014 | 55-01-060   | AMD   | 89-06-001 | 132D-20-070 | REP-W | 89-05-046 |
| 16-30-100  | AMD-P | 89-02-056 | 82-50-021   | AMD   | 89-03-063 | 132D-20-080 | REP-P | 89-05-012 |
| 16-30-100  | AMD   | 89-06-014 | 98-08-150   | AMD-P | 89-05-054 | 132D-20-080 | REP-W | 89-05-046 |
| 16-59      | AMD   | 89-06-007 | 98-11-010   | AMD-P | 89-05-054 | 132D-20-090 | REP-P | 89-05-012 |
| 16-59-030  | AMD   | 89-06-007 | 98-12-010   | REP-P | 89-05-054 | 132D-20-090 | REP-W | 89-05-046 |
| 16-228     | AMD-C | 89-06-006 | 98-12-050   | NEW-P | 89-05-054 | 132D-20-100 | REP-P | 89-05-012 |
| 16-230     | NEW-C | 89-04-056 | 98-14-090   | AMD-P | 89-05-054 | 132D-20-100 | REP-W | 89-05-046 |
| 16-230-800 | NEW-P | 89-03-065 | 98-14-100   | NEW-P | 89-05-054 | 132D-20-110 | REP-P | 89-05-012 |
| 16-230-805 | NEW-P | 89-03-065 | 98-16-020   | AMD-P | 89-05-054 | 132D-20-110 | REP-W | 89-05-046 |
| 16-230-810 | NEW-P | 89-03-065 | 98-20-010   | REP-P | 89-05-054 | 132D-20-120 | REP-P | 89-05-012 |
| 16-230-815 | NEW-P | 89-03-065 | 98-20-020   | AMD-P | 89-05-054 | 132D-20-120 | REP-W | 89-05-046 |
| 16-230-820 | NEW-P | 89-03-065 | 98-40-020   | AMD-P | 89-05-054 | 132D-20-130 | REP-P | 89-05-012 |
| 16-230-825 | NEW-P | 89-03-065 | 98-40-030   | AMD-P | 89-05-054 | 132D-20-130 | REP-W | 89-05-046 |
| 16-230-830 | NEW-P | 89-03-065 | 98-40-040   | AMD-P | 89-05-054 | 132D-20-140 | REP-P | 89-05-012 |
| 16-232-405 | NEW-E | 89-05-004 | 98-40-050   | AMD-P | 89-05-054 | 132D-20-140 | REP-W | 89-05-046 |
| 16-232-415 | NEW-E | 89-05-004 | 98-40-070   | AMD-P | 89-05-054 | 132D-20-150 | REP-P | 89-05-012 |
| 16-232-425 | NEW-E | 89-05-004 | 98-40-080   | AMD-P | 89-05-054 | 132D-20-150 | REP-W | 89-05-046 |
| 16-232-435 | NEW-E | 89-05-004 | 98-70-010   | AMD-P | 89-03-032 | 132D-20-160 | REP-P | 89-05-012 |
| 16-232-445 | NEW-E | 89-05-004 | 98-70-010   | AMD-E | 89-03-033 | 132D-20-160 | REP-W | 89-05-046 |
| 16-232-455 | NEW-E | 89-05-004 | 98-70-010   | AMD   | 89-06-074 | 132D-20-170 | REP-P | 89-05-012 |
| 16-232-465 | NEW-E | 89-05-004 | 131-28-015  | AMD-P | 89-06-054 | 132D-20-170 | REP-W | 89-05-046 |
| 16-400-007 | AMD-P | 89-05-040 | 131-28-021  | AMD-P | 89-06-054 | 132D-20-180 | REP-P | 89-05-012 |
| 16-400-010 | AMD-P | 89-05-040 | 131-28-025  | AMD-P | 89-06-054 | 132D-20-180 | REP-W | 89-05-046 |
| 16-400-040 | AMD-P | 89-05-040 | 131-28-026  | AMD-P | 89-06-054 | 132D-20-190 | REP-P | 89-05-012 |
| 16-400-050 | REP-P | 89-05-040 | 131-28-030  | AMD-P | 89-06-054 | 132D-20-190 | REP-W | 89-05-046 |
| 16-400-100 | AMD-P | 89-05-040 | 131-28-040  | AMD-P | 89-06-054 | 132D-20-200 | REP-P | 89-05-012 |
| 16-400-150 | AMD-P | 89-05-040 | 131-28-045  | AMD-P | 89-06-054 | 132D-20-200 | REP-W | 89-05-046 |
| 16-400-210 | AMD-P | 89-05-040 | 131-28-080  | AMD-P | 89-06-054 | 132D-20-210 | REP-P | 89-05-012 |
| 16-400-270 | AMD-P | 89-05-040 | 131-28-085  | AMD-P | 89-06-054 | 132D-20-210 | REP-W | 89-05-046 |
| 16-528-020 | AMD-P | 89-04-049 | 131-28-090  | AMD-P | 89-06-054 | 132D-20-220 | REP-P | 89-05-012 |
| 16-690-015 | AMD-P | 89-05-041 | 132D-12-010 | REP-P | 89-05-012 | 132D-20-220 | REP-W | 89-05-046 |
| 44-10-120  | AMD   | 89-06-026 | 132D-12-010 | REP-W | 89-05-046 | 132D-20-230 | REP-P | 89-05-012 |
| 44-10-300  | NEW   | 89-06-025 | 132D-12-010 | REP-P | 89-05-047 | 132D-20-230 | REP-W | 89-05-046 |
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| 132D-20-250  | REP-W 89-05-046 | 137-56-190   | AMD-P 89-02-058 | 173-313-040 | NEW-E 89-06-060 |
| 132D-20-260  | REP-P 89-05-012 | 137-56-200   | AMD-P 89-02-058 | 173-313-050 | NEW-E 89-06-060 |
| 132D-20-260  | REP-W 89-05-046 | 137-56-210   | AMD-P 89-02-058 | 173-314-010 | NEW 89-03-047   |
| 132D-20-270  | REP-P 89-05-012 | 137-56-220   | AMD-P 89-02-058 | 173-314-100 | NEW 89-03-047   |
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| 132D-20-280  | REP-P 89-05-012 | 137-56-240   | AMD-P 89-02-058 | 173-314-210 | NEW 89-03-047   |
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